OAKLAND

PLANNING

CODE

1997

A Codification of the General Planning Ordinances of the City of Oakland, California

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Title 17 PLANNING

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17.01.010 Title of Planning Code.

This title shall be known as the Oakland Planning Code, may be cited as such, and will be referred to herein by such title or as "this Code."

(Ord. 12054 § 2 (part), 1998)

17.01.020 Title of general provisions.

The provisions of Chapters 17.01 through 17.05 shall be known as the General Provisions of the Planning Code.

(Ord. 12054 § 2 (part), 1998)

17.01.030 Conformity with General Plan required.

Except as otherwise provided by Section 17.01.040, no activities or facilities shall be established, substituted, expanded, constructed, altered, moved, painted, maintained, or otherwise changed, and no lot lines shall be created or changed, except in conformity with the Oakland General Plan. To the extent that there is an express conflict between the Oakland General Plan and the Zoning Regulations, this requirement shall supersede the requirement for conformity with the Zoning Regulations stipulated in Section 17.07.060 (formerly Section 17.02.060).

(Ord. 12054 § 2 (part), 1998)

17.01.040 Exceptions to requirement for General Plan conformity.

The provisions of this Chapter shall not be construed to preclude the operation, maintenance, and occupancy of any activity or facility that existed lawfully prior to the effective date of this Chapter. Such activities and facilities shall be subject to the Nonconforming Use Regulations in Chapter 17.114.

(Ord. 12054 § 2 (part), 1998)

17.01.050 General Plan prevails over Planning Code and Subdivision Regulations.

Until the Planning Code is fully updated, land use designations, zoning controls, and subdivision controls specified by the Planning Code and Subdivision Regulations shall apply, except where such action would expressly conflict with the Oakland General Plan. Where an express conflict does arise, the General Plan policies and land use designations shall apply. An "express conflict" shall be deemed to be any situation where a proposal clearly conforms with the General Plan but is not permitted by the portion of Zoning Regulations that have not been fully updated, or where a proposal clearly does not conform with the General Plan, but is permitted or conditionally permitted by the portion of Zoning Regulations that have not been fully updated. The provisions of Sections 17.01.070 through 17.01.080 shall be used to determine whether an express conflict exists and the provisions of Sections 17.01.100 through 17.01.120, as applicable, shall then be followed.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12054 § 2 (part), 1998)

17.01.070 Determination of General Plan conformity by Director of City Planning.

The Director of City Planning shall determine whether any specific proposal conforms to the General Plan. Any interested party may apply for a written General Plan conformity determination upon payment of a fee as prescribed in the city master fee schedule. Prior to making a decision, there shall be notice given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved pursuant to Section 17.134.040.

(Ord. 12514 § 2 (part), 2003: Ord. 12054 § 2 (part), 1998)

17.01.080 Appeal of Director's determination.

A. Within ten (10) calendar days of a written determination by the Director of City Planning pursuant to Section 17.01.070, an appeal of such determination may be taken to the City Planning Commission by the applicant or any other interested party. Such appeal shall be accompanied by a fee as prescribed in the City master fee schedule, and shall be processed in accordance with the administrative appeal procedure in Chapter 17.132.

B. Within ten (10) calendar days of a written determination by the Director of City Planning pursuant to Subsection 17.01.120.C. an appeal of such determination may be taken to the City Council by the applicant or any other interested party. Such appeal shall be accompanied by a fee as prescribed in the City master fee schedule. In event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Director and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the

Planning Director or wherein his or her decision is not supported by the evidence in the record. Upon receipt of such appeal, the Council shall set the date for consideration thereof. After the hearing date is set, the Planning Director shall refer the matter to the Planning Commission for its review and advice. The Planning Commission shall consider the matter at its next available meeting. Such referral shall be only for the purpose of issue clarification and advice to the City Council. The City Clerk shall not less than seventeen (17) days prior to the Council hearing, give written notice of the date and place of the hearing on the appeal to the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate. In considering the appeal, the Council shall determine whether the proposal conforms to the provisions of Subsection 17.01.120.C., and may approve or disapprove the proposed determination. The decision of the City Council shall be made by resolution and shall be final.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12514 § 2 (part), 2003: Ord. 12054 § 2 (part), 1998)

17.01.100 Proposals clearly in conformance with General Plan.

A. If Permitted or Conditionally Permitted by Zoning Regulations (No "Express Conflict"). Any proposal determined to clearly conform with the General Plan and which is permitted or conditionally permitted by the Zoning Regulations shall be processed in accordance with such code and/or regulations.

B. If Not Permitted by the portion of Zoning Regulations not fully updated ("Express Conflict"). Any proposal determined to clearly conform with the General Plan and which is not permitted by the portion of Zoning Regulations not fully updated may be approved upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. Such use permit shall be processed as a minor conditional use permit or a major conditional use permit in conformance with the provisions of Chapter 17.134. A conditional use permit for such proposal may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to the following additional use permit criteria:

1. That the proposal is clearly appropriate in consideration of the characteristics of the proposal and the surrounding area;
2. That the proposal is clearly consistent with the intent and desired character of the relevant land use classification or classifications of the General Plan and any associated policies;
3. That the proposal will clearly promote implementation of the General Plan. Any such proposal shall be subject to the provisions of the "best fit zone" corresponding to the land use classification in which the proposal is located. If there is more than one "best fit zone," the Director of City Planning shall determine which zone to apply, with consideration given to the characteristics of the proposal and the surrounding area and any relevant provisions of the General Plan.

C. Optional Rezoning in Lieu of Conditional Use Permit ("Express Conflict"). At his or her option, in lieu of the conditional use permit provided for by Subsection B. of this Section, the applicant may apply for a rezoning pursuant to the rezoning and law change procedure in Chapter 17.144. Any such rezoning shall be to the "best fit zone" or other possible zone

corresponding to the land use classification in which the proposal is located. If such a rezoning is approved, the proposal shall then be subject to all of the provisions of the new zone, including but not limited to, any required conditional use permit.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12054 § 2 (part), 1998)

17.01.110 Proposals for which General Plan is silent or not clear on conformance.

A. If Permitted or Conditionally Permitted by Zoning Regulations (No "Express Conflict"). Any proposal for which the General Plan is silent or not clear as regards conformity and which is permitted or conditionally permitted by the Zoning Regulations shall be processed in accordance with such code and/or regulations.

B. If Not Permitted by Zoning Regulations (No "Express Conflict"). Any proposal for which the General Plan is silent or not clear as regards conformity, and which is not permitted by the Zoning Regulations shall be processed in accordance with such code and/or regulations. At his or her option, the applicant may modify the project to conform to the code and/or regulations, may apply for a variance pursuant to the variance procedure in Chapter 17.148, or may apply for a rezoning pursuant to the rezoning and law change procedure in Chapter 17.144. Any such rezoning shall be to the "best fit zone" or other possible zone corresponding to the land use classification in which the proposal is located. If such a rezoning is approved, the proposal shall then be subject to all of the provisions of the new zone, including but not limited to, any required conditional use permit.

(Ord. 12054 § 2 (part), 1998)

17.01.120 Proposals clearly not in conformance with the General Plan or the Land Use Diagram.

Any proposal determined to clearly not conform to the General Plan shall not be allowed and no application shall be accepted, nor shall any permits be approved or issued, for any such proposal, except as provided in this Section or in Section 17.01.040 or Section 17.01.070.

A. If Permitted or Conditionally Permitted by Zoning Regulations ("Express Conflict"). At his or her option, the applicant may modify the project to conform to the General Plan, request a General Plan conformity determination from the Director of City Planning pursuant to Section 17.01.070, or may apply for a General Plan Amendment. If such amendment involves the land use classification, the amendment shall be to the land use classification corresponding to the "best fit zone" or other possible zone in which the proposal is located.

B. If Not Permitted by Zoning Regulations (No "Express Conflict"). If proposal is not permitted under the Zoning Regulations, the applicant may apply for a rezoning pursuant to the rezoning and law change procedure in Chapter 17.144 in addition to a General Plan amendment. Any such rezoning shall be to the "best fit zone": or other possible zone corresponding to the land use classification of the associated General Plan amendment. If such a rezoning is approved, the proposal shall then be subject to all of the provisions of the new zone, including but not limited to, any required conditional use permit.

C. If permitted or conditionally permitted by Zoning Regulations, and where determined by the Planning Director to be consistent with the surrounding land uses and appropriate for the area, notwithstanding that the project may not be consistent with the General

Plan classification shown on the Land Use Diagram. It is recognized that the General Plan land uses have been broadly applied to areas without parcel by parcel specificity and that the Land Use Diagram details are largely illustrative of the Plan's written goals and policies. Because the Diagram is generalized, and does not necessarily depict the accuracy of each parcel or very small land areas, a determination of project consistency can be requested of the Director of City Planning. The applicant must demonstrate to the satisfaction of the Planning Director that the predominant use, or average density, is different from that shown on the Diagram and is appropriate for the area in question and that the project is in conformance with the written goals and policies of the General Plan. Written notice of the Director's determination shall be sent to all property owners within three hundred (300) feet of the property involved. The Director's determination may be appealed to the City Council pursuant to Section 17.01.080B.

(Ord. 12514 § 2 (part), 2003: Ord. 12054 § 2 (part), 1998)

Chapter 17.03 CITY PLANNING COMMISSION

Sections:

17.03.010 City Planning Commission, Landmarks Preservation Advisory Board and Board of Adjustments.

17.03.020 Preservation powers and duties of City Planning Commission.

17.03.030 Additional powers and duties of the City Planning Commission.

17.03.040 Residential Appeals Committee of the City Planning Commission

17.03.010 City Planning Commission, Landmarks Preservation Advisory Board and Board of Adjustments.

A. **City Planning Commission and Landmarks Preservation Advisory Board.** The membership and organization of the City Planning Commission and Landmarks Preservation Advisory Board, shall be as prescribed in this code and Ordinance Nos. 192 and 8883 C.M.S., as amended respectively, including, but not limited to the amendments made by Ordinance No. 6485 C.M.S., and their powers shall be as prescribed in said ordinances and in this code. Unless expressly stated therein, neither the adoption of this code nor any amendments thereto, nor the repeal of any ordinance, shall in any manner affect the organization of the City Planning Commission or Landmarks Preservation Advisory Board as existing on the effective date hereof. Unless expressly stated otherwise, all persons holding office on said Commission or Board under any provision repealed by the ordinance codified in this title shall continue to hold such office according to the former tenure thereof.

B. **Abolition of Board of Adjustments.** The Board of Adjustments is abolished; provided, however, that all matters pending before the Board of Adjustments on the effective date of this Section shall be heard and determined by the Board, or by the City Council in cases of appeal, in the same manner in effect prior to the effective date.

C. **Affirmative Action.** To the extent practicable, Commission and Board appointments shall be made in accordance with the City's affirmative action policies.

D. **Geographic Diversity.** To the extent practicable, Commission and Board appointments shall reflect the geographical diversity of the City.

E. **Councilmember Recommendations.** In making Commission and Board appointments, the Mayor shall accept for consideration recommendations for appointments offered by each Councilmember. Councilmembers must submit recommendations to the Mayor for consideration at least thirty (30) days prior to expiration of an existing Commission or Board member's term.

F. **Staggered Terms.** Commencing with the effective date of the ordinance codified in this Section, Commission and Board members shall be appointed to staggered terms, such terms to commence upon the date of appointment, except that an appointment to fill a vacancy shall be only for the unexpired portion of the term.

G. **Length of Terms.** Except for the initial appointments made immediately following passage of the ordinance codified in this Section, which may be for lesser terms of two (2) years or

one (1) year in order to establish staggered terms pursuant to Subsection F. of this Section, all appointments shall be for a period of three (3) years.

H. 1. **Limit on Consecutive Terms.** Commencing with the effective date of the ordinance codified in this Section, no person shall serve more than two (2) consecutive terms as a member of the Commission or Board. Members of the Commission or Board sitting on the effective date of the ordinance codified in this Section shall not be appointed to serve more than one additional consecutive term as a member of the Commission or Board.

2. In the event an appointment to fill a vacancy has not occurred by the conclusion of a Commission or Board member's term, that member may continue to serve as a member of the Commission or Board during the following term in a holdover capacity for a period not to exceed one year, to allow for the appointment of a Commission or Board member to serve the remainder of such following term.

I. **Removal.** To assure participation of Commission and Board members, attendance by the members of the Commission and Board at all regularly scheduled and special meetings of the Commission and Board shall be recorded, and such record shall be provided semiannually to the Office of the Mayor for review. A member may be removed pursuant to Section 601 of the City Charter. Cause for removal shall include, among other things, conviction of a felony, misconduct, incompetency, inattention to or inability to perform duties, absence from three (3) consecutive regular meetings, or, for members of the Commission's Residential Appeals Committee, absence from three (3) consecutive regular meetings of the Committee, except, in the case of absences, on account of illness or when absent from the City by permission of the Commission or Board.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12376 § 3 (part), 2001; Ord. 12054 § 1(d), 1998; Ord. 11776 §§ 1—3, 1995; prior planning code § 2)

17.03.020 Preservation powers and duties of City Planning Commission.

The City Planning Commission shall have and exercise the following powers. It shall be advised and assisted in the exercise of these powers by the Landmarks Preservation Advisory Board.

A. **Regulatory Protection.** As specified in the Zoning Regulations, the Commission may recommend structures, other physical features, sites, and areas to be given regulatory protection, and in certain cases shall review development proposals where such protection has been established by the City Council.

B. **Contracts with Property Owners.** The Commission may negotiate with owners of properties having special characteristics for, and may recommend to the City Council the approval of, contracts to restrict the use of such property and to retain such characteristics.

C. **Recognition of Merit.** The Commission may establish and maintain a list of structures, other physical features, sites, and areas considered deserving of official recognition although not given regulatory protection. The list may also include facilities, sites, or areas which are given regulatory protection. The purposes of the list shall be to recognize the merit of and encourage the protection, enhancement, perpetuation, and use of such structures, other physical features, sites, and areas. For these purposes, the Commission may authorize such steps as it deems desirable, including but not

limited to the issuance of certificates of recognition and the authorization of plaques. The Commission, through the Director of City Planning, shall coordinate these efforts with any similar efforts of appropriate governmental agencies and private groups interested in preservation.

D. **Inventory and Evaluation.** The Commission may carry out or assist or encourage studies and programs designed to identify and evaluate structures, other physical features, sites, and areas which are worthy of preservation. It may inspect and investigate structures, other physical features, sites, and other areas which it has reason to believe may be worthy of preservation.

E. **Consultation.** The Commission may consult with, advise, and consider the ideas and recommendations of civic groups, public agencies, and citizens interested in preservation.

F. **Information and Advice.** The Commission may disseminate information to the public concerning worthy structures, other physical features, sites, and areas. It may encourage and advise property owners in the protection, enhancement, perpetuation, and use thereof.

G. **Other Powers.** The Commission may consider methods other than those described above for encouraging and achieving preservation of worthy structures, other physical features, sites, and areas. It may explore means of financing the restoration or maintenance thereof. It may make appropriate recommendations on the general subject of preservation to the City Council, other public and private agencies and bodies, and the general public.

H. **Relationship to Powers of Director of City Planning and Others.** This Section is not intended to restrict the powers and duties otherwise pertaining to the Director of City Planning, or to other city officers or bodies, in the field of preservation. They shall have the powers and duties assigned to them by the Zoning Regulations, by other codes and ordinances, by the City Charter, or by valid administrative authority.

(Ord. 12054 § 1(d), 1998; prior planning code § 3)

17.03.030 Additional powers and duties of the City Planning Commission.

In addition to the powers and duties of the City Planning Commission as specified at Sections 17.03.010 and 17.03.020, the City Planning Commission shall have and exercise the following powers and duties:

A. **Guidelines.** The Commission may adopt, or may authorize the director of City Planning to adopt, reasonable guidelines for the administration, interpretation, or requirements or this code or portions of this code.

B. **Status Reports.** The Commission shall submit regular status reports to the City Council committee designated as liaison to the Commission. The regular status reports must be submitted at least once a year, or more frequently if directed by the chairperson of the City Council committee to which the Commission reports.

C. **Detailed Descriptions.** Status reports submitted in fulfillment of Subsection B. of this Section must include a detailed description of operating and staffing needs, to be developed and maintained by the department responsible for staffing and administration of the Commission.

D. **City Council Goals.** Each year, the Commission shall review the annual goals and objectives of the City Council. Review of City Council goals and objectives shall be undertaken to provide the Commission the opportunity to better integrate the activities of the Commission with the city's overall goals and objectives.

E. **City Council Approval of Standing Committees.** City Council approval must be obtained prior to the creation of any standing committee of the Commission. A proposal to create a standing committee of the Commission must include information regarding the costs associated with staffing the standing committee, and the costs of complying with noticing and reporting require resulting from the establishment of any such standing committee of the Commission.

(Ord. 12054 § 1(d), 1998; Ord. 11776 § 4, 1995: prior planning code § 4)

17.03.040 Residential Appeals Committee of the City Planning Commission

There is created a Residential Appeals Committee of the City Planning Commission consisting of three (3) members of the Commission. The Committee shall decide all appeals of decisions by the Director of City Planning as set forth in the Zoning Regulations. The method for appointing Committee members and the length of Committee members' terms shall be as set forth in the Commission's Rules of Procedure.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12376 § 3 (part), 2001)

Chapter 17.05 LANDMARKS PRESERVATION ADVISORY BOARD

Sections:

17.05.010 Creation and membership.

17.05.020 Terms.

17.05.030 Vacancies.

17.05.040 Removal.

17.05.050 Compensation.

17.05.060 Organization and rules.

17.05.070 Meetings.

17.05.080 Auxiliary committees and staffing.

17.05.090 Powers and duties.

17.05.100 Additional duties.

17.05.010 Creation and membership.

There is created a Landmarks Preservation Advisory Board. It shall consist of seven (7) members appointed by the Mayor subject to the affirmative vote of five (5) or more members of the City Council. In making appointments, the Mayor may consult persons and organizations interested in landmarks or historic preservation. The members shall include at least one architect; one landscape architect or city planner; one person having extensive knowledge of Oakland history, or of relevant architectural history; and one real estate broker or other person with significant experience in the financing or management of real estate.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12054 § 1(e), 1998; prior planning code § 5(a))

17.05.020 Terms.

Of the original appointments, two shall be for a one-year term, two shall be for a two-year term, and three shall be for a three-year term. After the expiration of the original terms, all appointments, other than those to fill a vacancy, shall be for three-year terms.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(b))

17.05.030 Vacancies.

Vacancies shall be filled for any unexpired term in the same manner as the original appointments were made.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(c))

17.05.040 Removal.

Any member of the Board may be removed for cause, after hearing, by the affirmative vote of six (6) or more members of the City Council.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12054 § 1(e), 1998; prior planning code § 5(d))

17.05.050 Compensation.

The Board members shall serve without compensation. However, necessary actual travel and other expenses shall be reimbursed them, when the city's interests shall so require, if such is authorized by the City Council.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(e))

17.05.060 Organization and rules.

The Board shall elect a chairperson and vice-chairperson from its own membership, and shall select a secretary who may be a member of the city staff. The Board shall establish rules and regulations for its own organization, procedure, and meetings.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(f))

17.05.070 Meetings.

All meetings shall be open to the public, and interested persons shall be given reasonable opportunity to be heard.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(g))

17.05.080 Auxiliary committees and staffing.

The Board shall make every effort to obtain assistance from, and to work with, private groups and citizens interested in preservation. It may designate auxiliary committees to assist it. The Board may seek staff assistance from the City Administrator or the City Council.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12054 § 1(e), 1998; prior planning code § 5(h))

17.05.090 Powers and duties.

The Board shall advise and assist the City Planning Commission and the Director of City Planning, as well as other public agencies, civic groups, and the general public, on the matters described in Section 17.03.020.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(i))

17.05.100 Additional duties.

A. The Board shall submit regular status reports to the City Council committee designated as liaison to the Board. The regular status reports must be submitted at least once a year, or

more frequently if directed by the chairperson of the City Council committee to which the Board reports.

B. Status reports submitted in fulfillment of the requirements of this code must include a detailed description of operating and staffing needs, to be developed and maintained by the department responsible for staffing and administration of the Board.

C. Each year, the Board shall review the annual goals and objectives of the City Council. Review of City Council goals and objectives shall be undertaken to provide the Board the opportunity to better integrate the activities of the Board with the city's overall goals and objectives.

D. City Council approval must be obtained prior to the creation of any standing committee of the Board. A proposal to create a standing committee of the Board must include information regarding the costs associated with staffing the standing committee, and the costs of complying with noticing and reporting requirements resulting from the establishment of any such standing committee of the Board.

(Ord. 11776 § 5, 1995: prior planning code § 5(j))

Chapter 17.07 TITLE, PURPOSE AND SCOPE OF THE ZONING REGULATIONS

Sections:

17.07.010 Title, purpose, and applicability.

17.07.020 Title of zoning regulations.

17.07.030 Purposes of zoning regulations.

17.07.040 Applicability of zoning regulations.

17.07.050 Effect of development control maps.

17.07.060 Conformity with zoning regulations required.

17.07.065 Permitted and conditionally permitted uses.

17.07.070 Minimum requirements.

17.07.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Title and Scope of the Zoning Regulations. The purpose of these provisions is to specify the title, purposes, and applicability of the zoning regulations and to require conformity to said regulations. These provisions shall apply to the entire zoning regulations.

(Ord. 12054 § 1(a), 1998; prior planning code § 2000)

17.07.020 Title of zoning regulations.

The provisions of Chapters 17.07 through 17.158 shall be known as the Zoning Regulations.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. 12054 § 1(a, b), 1998; prior planning code § 2001)

17.07.030 Purposes of zoning regulations.

The general purposes of the zoning regulations are to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare and to achieve the following objectives:

A. To promote the achievement of the proposals, policies and objectives of the Oakland General Plan;

B. To advance Oakland's position as a regional center of commerce, industry, recreation, and culture;

C. To protect residential, commercial, industrial, and civic areas from the intrusion of incompatible uses, and to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services;

D. To provide for desirable, appropriately located living areas in a variety of dwelling types and at a wide range of population densities, with adequate provision for sunlight, fresh air, and usable open space;

E. To ensure preservation of adequate space for commercial, industrial, and other activities necessary for a healthy economy;

F. To promote safe, fast, and efficient movement of people and goods, and the provision of adequate off-street parking and loading;

G. To achieve excellence and originality of design in all future developments and to preserve the natural beauty of Oakland's setting;

H. To promote the growth of productivity of the Oakland economy;

I. To stabilize expectations regarding future development of Oakland, thereby providing a basis for wise decisions with respect to such development;

J. To secure equity among individuals in the utilization of their property;

K. To promote an attractive urban environment which will enhance the City's economic potential and encourage decisions to make investments, do business, shop, and live within Oakland;

L. To especially protect and improve the appearance and orderliness of major trafficways and transit lines and views therefrom, thereby increasing the enjoyment of travel, reducing traffic hazards, and enhancing the image of Oakland derived by residents, businesspeople, commuters, visitors, and potential investors;

M. To protect the very substantial public investment in, and the character and dignity of, public buildings, open spaces, thoroughfares, and rapid transit lines;

N. To encourage a maximum of planting and other amenities, and a minimum of excessively intrusive signs, overhead utility lines, and other environmental clutter;

O. To encourage Signs which are in scale and harmony with surrounding uses, which are visually subordinate to the on-site and nearby buildings, which are themselves well designed, and which have good spacing and design relationships to other Signs;

P. To prevent the unnecessary destruction or impairment of structures, other physical features, sites, and areas of special character or special historical, cultural, educational, architectural, aesthetic, or environmental interest or value and to achieve the following purposes:

1. The protection, enhancement, perpetuation, and use of structures and other physical features, sites, and areas that are reminders of past eras, events, and persons important in local, state, or national history, or which provide significant examples of architectural styles of the past or are landmarks in the history of architecture, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived,

2. The development and maintenance of appropriate settings and environment for such structures, and other physical features, on such sites, and in such areas,

3. The enhancement of property values, the stabilization of neighborhoods and areas of the City, the increase of economic and financial benefits to the City and its inhabitants, and the promotion of tourist trade and interest,

4. The preservation and encouragement of a City of varied architectural styles, reflecting the distinct phases of its cultural, social, economic, political, and architectural history,
5. The enrichment of human life in its educational and cultural dimensions in order to serve spiritual as well as material needs, by fostering knowledge of the living heritage of the past.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12054 § 1(a), 1998; prior planning code § 2002)

17.07.040 Applicability of zoning regulations.

A. **To Which Property Applicable.** The zoning regulations shall apply, to the extent permissible under other laws, to all property within the City of Oakland, and to property outside Oakland to the extent provided in Subsection B. of this Section, regardless of whether such property is in private or public ownership.

B. **Prezoning of Land Outside City Limits.** Pursuant to the applicable procedures set forth in Chapters 17.130 through 17.152, territory outside the City limits may be placed in appropriate zones, may be included on development control maps, or facilities thereon may be designated landmarks and landmark sites, and proposed planned unit developments or uses may be considered and action taken thereon. The zoning provisions and requirements so established shall become applicable at the same time that the annexation of such territory becomes effective.

C. **Duplicated or Conflicting Regulation or Restriction.** Where any provision, condition or requirement imposed by, or pursuant to, the zoning regulations and any other provision of any other applicable law, ordinance, resolution, rule or regulation, whether set forth in, or pursuant to, this code, the Oakland Building Code or Oakland Housing Code, or in any other law, ordinance, resolution, rule, regulation, term, or requirement, imposes overlapping or contradictory regulations, or contains restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the zoning regulations or elsewhere in the Oakland Municipal Code. No provision of this code shall be construed to abrogate, annul or impair any restriction covering any of the same subject matter that is more restrictive or imposes higher development standards except as otherwise expressly provided in the zoning regulations.

D. **Private Agreements.** The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant, or other agreement between parties. However, where the zoning regulations impose a greater restriction or higher standard than that required by such agreement, the zoning regulations shall control, except as otherwise authorized under the development agreement procedure in Chapter 17.138

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12054 § 1(a), 1998; prior planning code § 2003)

17.07.050 Effect of development control maps.

Development control maps and all notations, references, and regulations shown therewith shall be considered part of the zoning regulations. Development control maps may include, but are not limited to, regulations intended to carry out any plan respecting location or type of

activities; height, bulk, siting, or design of structures; location or design of open areas and landscaping; and other comparable regulations. In case of conflict with any other provision of the zoning regulations, the development control map shall take precedence, except as otherwise authorized under the development agreement procedure in Chapter 17.138.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12054 § 1(a), 1998; prior planning code § 2004)

17.07.060 Conformity with zoning regulations required.

Except as otherwise allowed by Section 17.114.030 and by the nonconforming use regulations in Chapter 17.114, or as authorized under Section 17.138.015, the development agreement procedure in Chapter 17.138, or the variance procedure in Chapter 17.148, no activities or facilities shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed, and no lot lines shall be created or changed, except in conformity to the zoning regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12054 § 1(a), 1998; prior planning code § 2010)

17.07.065 Permitted and conditionally permitted uses.

A. **Other Uses Prohibited.** Except as otherwise provided in Sections 17.114.030 and 17.154.060, the nonconforming use regulations in Chapter 17.114, and the planned unit development regulations in Chapter 17.142, or as authorized under Section 17.138.015, the development agreement procedure in Chapter 17.138, or the variance procedure in Chapter 17.148, no land shall be improved or used for any activity or facility which is not listed as permitted or conditionally permitted in the applicable individual zone regulations or development control maps.

B. **Relationship Between Activities and Facilities.** A use must qualify under the zoning regulations both as an activity and as a facility. A permitted or conditionally permitted activity may be accommodated or served only by a permitted facility or, upon the granting of a conditional use permit, by a conditionally permitted facility; and a permitted or conditionally permitted facility may accommodate or serve, or be designed to accommodate or serve, only a permitted activity or, upon the granting of a conditional use permit, a conditionally permitted activity.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.07.070 Minimum requirements.

In their interpretation and application, the provisions of the zoning regulations shall be considered the minimum requirements necessary to accomplish the purposes set forth in Section 17.02.030.

(Ord. 12054 § 1(a), 1998; prior planning code § 2011)

Chapter 17.09 DEFINITIONS

Sections:

17.09.010 Title, purpose, and applicability.

17.09.020 General rules for construction of language.

17.09.030 Use classifications.

17.09.040 Definitions.

17.09.050 Special definitions for projects in the Open Space (OS) Zone.

17.09.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the zoning regulations. The meaning and construction of words and phrases as hereinafter set forth shall apply throughout the zoning regulations, except where the context of such words or phrases clearly indicates a different meaning or construction.

(Ord. 12054 § 1(c), 1998; prior planning code § 2100)

17.09.020 General rules for construction of language.

The following general rules of construction shall apply to the textual provisions of the zoning regulations:

A. The particular shall control the general.

B. In case of any difference of meaning or implication between the text of any provision and any caption or illustration, the text shall control.

C. The word "shall" is always mandatory and not discretionary. The word "may" is discretionary.

D. The word "permitted" means permitted without the requirement for a conditional use permit but subject to all applicable regulations.

E. The words "conditionally permitted" mean permitted subject to the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and subject to all other applicable regulations.

F. Words used in the present tense include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

G. The words "activities" and "facilities" mean and include any part thereof.

H. Unless the context clearly indicates to the contrary, the following conjunctions shall be interpreted as follows:

   1. "And" indicates that all connected items or provisions shall apply.

   2. "Or" indicates that the connected items or provisions may apply singly or in any combination.

3. "Either...or" indicates that the connected items or provisions shall apply singly but not in combination.

I. All public officials, bodies, and agencies to which reference is made are those of the city of Oakland unless otherwise indicated.

J. The word "city" means the City of Oakland.

(Ord. 12054 § 1(c), 1998; prior planning code § 2101)

17.09.030 Use classifications.

Activity types and facility types, the names of which always start with capital letters, are described in the use classifications in Chapter 17.10.

(Ord. 12054 § 1(c), 1998; prior planning code § 2102)

17.09.040 Definitions.

"'A' weighted sound level" means the total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of twenty (20) micropascals using the 'A' weighted network (scale) at slow response. The unit of measurement shall be defined as dBA or dB(a).

"Access facility width" means the width of the paved roadway surface curb-to-curb or edge-to-edge, exclusive of shoulders.

"Accessory activity" means an activity which is incidental to, and customarily associated with, a specified principal activity, and which meets the applicable conditions set forth in Section 17.10.040.

"Accessory facility" means a facility, other than a Sign, which is incidental to, and customarily associated with, a specified principal facility, and which meets the applicable conditions set forth in Section 17.10.070.

"Accessory structure" means a building or facility, other than a Sign, which is incidental to, and customarily associated with, a specified principal facility, and which meets the applicable regulations set forth in Title 17 of the Oakland Planning Code.

"Activity" means the performance of a function or operation.

"Activity type" means a type of activity which is specially described as such by the use classifications in Chapter 17.10 on the basis of common functional characteristics and similar effects on other uses, and which is designated throughout the zoning regulations by a special name each word of which starts with a capital letter.

"Adult entertainment activity" means any commercial activity, whether conducted intermittently or full-time, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs, or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to human sex acts, or by emphasis on male or female genitals, buttocks, or female breasts.

"Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, or any liquid or solid containing alcohol, spirits, wine, or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

"Alcoholic beverage license overconcentrated areas" means a police beat with crime rates that exceed the City median by twenty (20) percent or more or a census tract in which the per capita number of on-sale or off-sale retail Alcoholic Beverage Sales licenses exceeds the Alameda County median.

"Alley" means a dedicated public way intended primarily to provide secondary vehicular access to abutting properties.

"Alteration" means any enlargement; addition; demolition; removal; relocation; repair; remodeling; change in number of living units; development of or change in an open area; development of or change in a Sign, by painting or otherwise; or other change in a facility, but excluding painting except as provided above for Signs, and ordinary maintenance for which no building permit is required.

"Ambient noise level" means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding any alleged offensive noise. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

"Area Damaged by the 1991 Firestorm" means all of that area situated: beginning at the intersection of Claremont Avenue and the westerly line of the University of California, Berkeley campus, thence southerly along said westerly property line of the University of California campus to Grizzly Peak Boulevard; thence southeasterly on Grizzly Peak Boulevard to the most westerly line of the Robert Sibley Volcanic Regional Preserve; thence due south to Skyline Boulevard; thence westerly on Skyline Boulevard to Broadway Terrace; thence southwest on Broadway Terrace to Farallon Way; thence southwest on Farallon Way and the extension of Farallon Way to Pinehaven Road; thence westerly on Pinehaven Road to Broadway Terrace; thence southerly on Broadway Terrace to Uranus Avenue; thence east on Uranus Avenue to Sherwood Drive; thence south on Sherwood Drive to Taurus Avenue; thence west on Taurus Avenue approximately six hundred fifty (650) feet to a path connecting Taurus Avenue and Capricorn Avenue; thence south along said path to Capricorn Avenue; thence south on Capricorn Avenue to Florence Terrace; thence north and west on Florence Terrace and an extension of Florence Terrace across Highway 13 to Estates Drive; thence west on Estates Drive to Masonic Avenue; thence south on Masonic Avenue to Amy Drive; thence southwest on Amy Drive to Harbord Drive; thence southeast on Harbord Drive to Maxwelton Road; thence southwest on Maxwelton Road to the Oakland-Piedmont border; thence northwest along said Oakland-Piedmont border to Clarewood Drive; thence northwest on Clarewood Drive to Broadway Terrace; thence west on Broadway Terrace to Margarido Drive; thence north and east on Margarido Drive to Rockridge Boulevard South; thence west on Rockridge Boulevard South to Rockridge Boulevard; thence west on Rockridge Boulevard to Broadway; thence north on Broadway to Golden Gate Avenue; thence north on Golden Gate Avenue to Chabot Road; thence along the extension of Golden Gate Avenue to the Oakland-Berkeley border; thence along said Oakland-Berkeley border to the intersection of said Oakland-Berkeley border with Claremont Avenue; thence northeast on Claremont Avenue to the point of beginning.

"Area of Primary Importance" or **"API"** means an area as defined by the Historic Preservation Element of the General Plan.

"Area of Secondary Importance" or **"ASI"** means an area as defined by the Historic Preservation Element of the General Plan.

"Attic" means a space between the roof framing and the floor of such space and which is excluded from the definition of "story."

"Base of a building" or **"building base"** means that portion of a building immediately above finished grade to the maximum total base height as described in an individual zoning designation.

"Basement" means the area below the lowest level of a building and which is excluded from the definition of "story."

"Bedroom" means any habitable room, regardless of its designation on building plans, which meets both of the following criteria:

1. The room may legally function as a bedroom in that it complies with, or is required by the Building Official to comply with, all applicable laws and regulations pertaining to sleeping rooms, including, but not limited to, the requirements of the Oakland Building Code for light and ventilation in habitable rooms and emergency egress from sleeping rooms; and the Oakland Housing Code definition of "sleeping room."
2. The room may logically function as a bedroom, with consideration given to its function and physical relationship to the remainder of the living unit.

"Berth" means an area, exclusive of docks, designated to accommodate a motor vehicle during loading or unloading of goods.

"Buildable area" means the portions of a lot on which a building can be located as defined by the minimum setbacks, if any, and all other applicable provisions of this code.

"Buildable envelope" means the volume of space for buildings and other structures as defined by the minimum setbacks and the maximum allowable height.

"Building" means a structure having a roof supported by columns or walls.

"Building Envelope" means the exterior surface of a building, consisting of such elements as the foundation, walls, windows, roof, doors, floors, and other attached features. An increase in the building envelope shall be defined as an increase in the exterior size, footprint, or height of a building; or the enclosure or conversion into living area of any open balcony, deck, porch, or unenclosed understory.

"Building Facility" means any structure, open area, or object which accommodates or is intended to accommodate Residential, Civic, Commercial, Industrial and/or Mixed Use Activities. Building Facilities also include such facilities as are customarily associated with, and are appropriate, incidental, and subordinate to Residential, Civic, Commercial, Industrial and/or Mixed Use Activities.

"Building Front" see front of building.

"Building length" means a plan dimension parallel to an exterior wall or walls. This measurement is equal to the horizontal dimension of the corresponding elevation of the building or structure at a given level.

"Character-defining elements" means those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance.

"Collective household" means a group of at least two, but not more than five, persons who are unrelated by blood, marriage, or adoption, living together as an independent housekeeping unit.

"Commercial Zone" means any zone with a name that contains the words "Commercial Zone."

"Common driveway" means a driveway having a width of no less than twelve (12) feet and providing a shared access alternative to, and across existing legal lots which have street frontage, regardless of lot ownership. At the discretion of the Director of Public Works, based on considerations described in the City Planning Commission guidelines, the street entrance portion of the common driveway may be located within the public right-of-way. In calculating aggregate residential density, the area of the common driveway shall be excluded from the total area of the lots crossed by the common driveway.

"Corner lot" (see illustration I-1) means a lot bounded on two or more adjacent sides by streets, by private ways described in Section 17.106.020, or by portions of such streets or ways, having an angle of intersection of one hundred thirty-five (135) degrees or less.

"Court" means an area between two walls on the same lot, measured for a specified distance, in a horizontal plane, perpendicularly from either of such walls; located on the same lot as said walls; and open and unobstructed except for the facilities allowed therein by Section 17.108.130.

"Day" means calendar day.

"Decibel (dB)" means a unit for measuring the amplitude of sounds, equal to twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.

"Dependent parking space" means a parking space which can only be accessed by driving across another parking space. (See also "Independent parking space" and "Tandem parking" in this Section.)

"Designated Historic Properties" means landmarks, contributors or potential contributors to Preservation Districts, or Heritage Properties.

"Designated landmark" means a facility, portion thereof, or group of facilities which has a special character, interest, or value and which has been established as a landmark pursuant to Section 17.136.070 and the rezoning and law change procedure in Chapter 17.144.

"Designated landmark site" means a lot or other site which contains a designated landmark and which has been established pursuant to Section 17.136.070 and the rezoning and law change procedure in Chapter 17.144.

"Development control map" means a map or set of maps, with supporting text, regulating the precise location, height, bulk, design, or nature of activities or facilities.

"Display surface (area of)" means the area of the smallest plane figure which can be made to include all of the idea, advertisement, identification, or information intended to be conveyed by a Sign, including any trim or other material or color forming an integral part of the display or used to differentiate the Sign from the background against which it is placed, but excluding uprights or other structural members which are not a part of the display. With respect to multifaced Signs, the area of all such faces shall be included except where the context refers to only one face.

"Diagonal length" means a horizontal plan dimension between the two most separated points on the exterior walls at a given level of a building or structure.

"Dormer" means a roofed structure projecting from a sloping roof and containing a window or ventilating louver.

"Driveway" means the way or means of vehicular access from that portion of a street used for vehicular travel to the parking, loading, or other vehicular activity on the adjacent property, including the portion of the sidewalk lying within said way or means of access. (Note that this

differs from the definition of "Driveway" at Section 12.04.240 of the Oakland Municipal Code, which only includes that portion lying within the street right-of-way.)

"Dwelling unit" means a room or suite of rooms including one (1) and only one (1) kitchen, except as otherwise provided in Section 17.102.270, and designed or occupied as separate living quarters for one (1) person or family; or, where the facility occupied is a One-Family Dwelling, such family and not more than three (3) boarders, roomers, or lodgers where access to all rooms occupied by such boarders, roomers, or lodgers is had through the main entrance of the dwelling unit.

"Earthen berm" means a mound or embankment of earth, together with necessary retaining structures.

"Edge of the pavement" means the edge of that part of a street, alley, or private access easement described in Section 17.106.020, having an improved surface used for vehicle travel and parking, including gutters, but not including a raised curb or sidewalk.

"Efficiency dwelling unit" means a dwelling unit containing only a single habitable room other than a kitchen, or containing a total of less than five hundred (500) square feet of floor area.

"Electroplating activity" means the electrochemical process of depositing a thin metallic coating of one metal on top of a different metal by passing an electrical current into a piece of metal immersed in chemical solutions comprised of caustics, acids, cyanides or other bonding chemicals, and causing a metallic coating to bond with the object to be plated. Such activities are classified as General Manufacturing Industrial Activities and are subject to the provisions of Section 17.102.340.

"Enclosed retaining wall" means a retaining wall located on a lot such that it is visually shielded by other permanent structures and cannot be seen from public streets and adjacent lots.

"Existing grade" means the natural grade or the revised grade due to prior development of a lot.

"Facility" means a structure, open area, or other physical contrivance or object.

"Facility Type" means a type of facility which is specially described as such by the use classifications in Chapter 17.10 on the basis of common functional characteristics and similar effects on other uses, and which is designated throughout the zoning regulations by a special name each word of which starts with a capital letter.

"Family" means one person, or a group of people living together as a single housekeeping unit, together with any incidental domestic servants and temporary nonpaying guests.

"Family foster care home" means a Residential Activity providing twenty-four (24) hour care for six (6) or fewer foster children in a Residential Facility that is the residence of the foster parents, including their family, in whose care the foster children have been placed.

"Finished grade" means:

1. Natural grade exterior to all buildings or structures created by any proposed development in all those situations not covered by Subsection 2. of this definition;
2. A revised grade exterior to all buildings or structures created by any proposed development where the revised grade is achieved under a City grading permit, subdivision approval, or conditional use permit or other special zoning approval, or through officially approved work in a public right-of-way.

"Flashing illumination (of a Sign)" means illumination of a Sign wherein such illumination is not maintained constant in intensity, color, and pattern during all times the Sign is activated.

"Floor Area":

1. "Floor area," for all projects except those with one or two dwelling units on a lot, means the total of the gross horizontal areas of all floors, including usable basements, below the roof and within the outer surfaces of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portion thereof without walls, but excluding the following:
    a. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto;
    b. Areas which qualify as usable open space under the standards for required usable open space in Chapter 17.126
    c. In the case of Nonresidential Facilities: arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.
2. "Floor area," for all projects with one or two dwelling units on a lot, means the total square footage of all levels of all buildings on the lot. Levels shall be measured horizontally from the outside surface of exterior walls and supporting columns. The amount of floor area in each building shall be determined by the following criteria:
    a. Floor area shall include all enclosed shafts, including stairwells, ventilation shafts and similar vertical shafts; the floor area of such shafts shall consist of the horizontal projection into the shaft of surrounding floor area; and
    b. Floor area shall not include:
        i. Unenclosed living areas such as balconies, decks and porches;
        ii. Carports that are unenclosed on two (2) or more sides;
        iii. Up to four hundred forty (440) square feet within an attached or detached garage or carport that is enclosed on three (3) or more sides;
        iv. Nonhabitable accessory structures of less than one hundred twenty (120) square feet;
        v. Attics and basements, as defined in the Oakland Planning Code, that do not qualify as a story; and
        vi. Finished and unfinished understories and basements if the height from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least fifty percent (50%) of the perimeter and does not exceed twelve (12) feet above grade at any point.

"Floorplate" means the total area of a single floor of a building.

"Floor Area of a marina" means the space dedicated to the docking or mooring of marine vessels.

"Floor-Area Ratio (FAR)" means the number resulting from the division of the floor area on a lot by the lot area.

"Footprint" means the total land area covered by all structures on a lot, measured from outside of all exterior walls and supporting columns, including residences, garages, covered carports, and accessory structures, except that the following shall not be considered in determining footprint:

1. The portions of any uncovered and unenclosed decks, porches, landings, or patios, not including railings, which are less than thirty (30) inches above finished grade;
2. The portions of any uncovered and unenclosed balconies and stairways, including railings, which are less than six (6) feet above finished grade;
3. Eaves and roof overhangs; and
4. Trellises and similar structures which do not have solid roofs and which would not otherwise be included in this definition.

"Footprint slope" means the deviation of the ground surface from the horizontal, expressed as a percentage, measured at the steepest point between opposite sides of the building footprint. For additions, the ground surface slope is measured at the steepest point between opposite sides of the existing building footprint, plus the footprint of the addition.

"Frequency" means the number of oscillations per second, or pitch, of a sound, with a greater frequency corresponding to a higher pitch.

"Frontage" means a front lot line; also the length thereof.

"Front of building" or **"building front"** means that part of the facade oriented towards and visually prominent to the principal street.

"Front lot line" means:

1. On an interior lot: any abutting street line, except where an interior lot has more than one abutting street line, the Director of City Planning shall select one of the street lines as the front lot line; such selection shall conform with any neighborhood patterns.
2. On a corner lot: the shorter of any adjacent two abutting street lines, or portions thereof, which intersect at an angle of not less than forty-five (45) degrees but not more than one hundred thirty-five (135) degrees; except that the Director of City Planning may select either as the front lot line to conform with any neighborhood patterns. If adjacent street lines, or portions thereof, of a corner lot intersect at an angle of less than forty-five (45) degrees, both such street lines or portions thereof shall be deemed front lot lines.

"Front yard" means a yard measured into a lot from its front lot line or lines equal to the depth of the required front yard. Except where a front yard is prescribed only for certain kinds of facilities, a required front yard shall extend the full width of the lot between its side lot lines.

"Front setback" or **"Front yard setback"** means the setback from the front lot line.

"Full-service restaurant" means a place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant.

"Gable end" means the end of a gable, gambrel, gablet, jerkinhead, shed, or similar roof consisting of a generally triangular shaped wall or vertical plane at the end of the roof and inscribed by the edges of the roof planes and a line connecting the bases of the roof planes.

"Gradient" means the difference in elevation between defined reference points divided by the horizontal distance between these points.

"Gross vehicle weight rating" means the vehicle weight specified by the manufacturer as the maximum loaded weight (truck plus cargo) of a single vehicle.

"Habitable room" means a space in a living unit intended for living, sleeping, eating, or cooking, including, but not limited to, living rooms, dining rooms, bedrooms, kitchens, dens, family rooms, finished recreation rooms, and enclosed porches suitable for year-round use.

To be considered an individual habitable room, a space must be either:

1. Entirely enclosed by partitions and connected to other rooms or spaces by doorways or open archways;
2. Separated from another space that both has a floor level difference of at least one (1) foot and is intended to be used for a different function; or
3. A kitchen area. Where there are no partitions, open archways, or a split floor level, as described in Subsections 1. and 2. above, the part of the kitchen space considered a habitable room includes all kitchen counters, cabinets, major appliances, and other fixtures plus the floor area within three (3) feet directly in front these items.

Specifically excluded from the definition of habitable room are bathrooms, water closets, hallways, foyers, storage closets, pantries, laundries, utility rooms, unfinished attics and basements, balconies, open porches, garages, and other unfinished spaces used for storage.

"Habitable rooms, number of" means the total number of habitable rooms in a Residential Facility, except:

1. A habitable room of less than fifty (50) square feet counts as half a room.
2. A habitable room larger than four hundred (400) square feet counts as one (1) room for each four hundred (400) square feet or fraction thereof.

"Height" means the vertical distance of any structure, building, fence, Sign, retaining wall, or other facility measured from any point on top of the facility to a line directly below which meets finished grade on the outside perimeter of the facility, or intersects with a perpendicular plane connecting opposite points of finished grade at the outside perimeter of the facility.

1. The height of any portion of a facility within six (6) feet of a retaining wall shall be measured from finished grade at the perimeter of the facility or at the base of the retaining wall, whichever is lower, subject to the following exceptions:
    a. The height of any fence separated by a distance of at least eighteen (18) inches from the inside face of a retaining wall shall be measured from finished grade at the perimeter of the fence.
    b. The height of any facility abutting a light well, depressed landing, or similar facility that extends entirely below surrounding finished grade and no more five (5) feet from the perimeter of the abutting facility shall be measured from the surrounding finished grade at the outside perimeter of the facility, not including the light well, depressed landing, or similar facility.

"Home occupation" means an accessory activity of a nonresidential nature which is performed within a living unit, or within a garage attached thereto and reserved therefore, by an occupant of the living unit and which is customarily incidental to the residential use of the living unit.

"Hotel" means a facility, other than a motel, designed for or occupied by Transient Habitation Commercial Activities, where access to individual units is predominantly by means of common interior hallways.

"Illegal use" means an activity or facility that does not enjoy a legal conforming or legal nonconforming status, as defined in the zoning regulations. A minor illegal use is an illegal use that can be legalized by any means other than by major variance.

"Improvement" means, for the purposes of implementation of the recycling space allocation requirements, work which adds to the value of a facility, prolongs its useful life, or adapts it to new uses. "Improvements" should be distinguished from repairs. Repairs keep facilities in good operating condition, do not materially add to the value of the facility, and do not substantially extend the life of the facility.

"Independent parking space" means a parking space which can be accessed without driving across another parking space. (See also "Dependent parking space" and "Tandem parking" in this Section.)

"Indirect illumination (of a Sign)" means illumination of a Sign by means only of light cast upon it from a concealed source outside the Sign itself.

"Industrial Zone" means any zone with a name that contains the words "Industrial Zone."

"Interior lot" means any lot other than a corner lot.

"Interior side lot line" means any side lot line which is not a street line.

"Interior side setback" or **"Interior side yard setback"** means the setback from the interior side lot line.

"Introductory service" means an activity the primary purpose of which is, for compensation, promoting friendships between or introducing for social purposes persons of the opposite sex.

"Key lot" means the first interior lot to the rear of a reversed corner lot, with its front lot line being substantially a continuation of a side lot line of the reversed corner lot.

"Kitchen" means any room or portion thereof containing facilities designed or used for the preparation of food, including but not limited to stoves, ranges, or hotplates.

"Legally required window" means a window or portion thereof which serves to meet the requirements of the Oakland Building Code with respect to area, number, or location of windows.

"Living room" means the principal room designed for general living purposes in living unit. Every living unit shall be deemed to have a living room.

"Living unit" means a dwelling unit or a rooming unit.

"Local Register Property" means any building, object, property or district listed in the City of Oakland's Local Register of Historical Resources, which includes all Landmarks, Designated Historic Properties, Heritage Properties, Study List Properties, Preservation Districts, and S-7 and S-20 Preservation Combining Zone Properties; and those Potential Designated Historic Properties (PDHPs) that are determined by the City's Cultural Heritage Survey to have an existing rating of "A" or "B", or to contribute or potentially contribute to an Area of Primary Importance (API).

"Landmark" means a property that has been designated as a Landmark by the City Council pursuant to Section 17.136.070.

"Lot" means a parcel of contiguous land which is or may be developed or utilized, under one ownership, as a unit site for a use or group of uses.

"Lot area" means the area of a lot measured horizontally between bounding lot lines.

"Lot coverage" means the total land area covered by all of the structures on a lot measured from outside of all exterior walls and supporting columns, including all projections, except that the following shall not be considered in determining lot coverage:

1. The portions of any uncovered and unenclosed decks, porches, landings or patios, not including railings, which are less than thirty (30) inches above finished grade;
2. The portions of any uncovered and unenclosed balconies and stairways, including railings, which are less than six (6) feet above finished grade;
3. Eaves and roof overhangs up to four (4) feet from a wall;
4. Trellises and similar structures which do not have solid roofs and which would not otherwise be included in this definition; and
5. Nonhabitable accessory structures of less than one hundred twenty (120) square feet.

"Lot depth" means the horizontal distance between the rear lot line, or some other lot line in cases where there is no rear lot line, and the midpoint of the front lot line, measured back from said midpoint in the mean direction of the side lot lines; also the line so described.

"Lot line" means any boundary of a lot.

"Lot width" is the horizontal distances between the side lot lines measured at right angles to the side lot lines at all points between the front lot line and the rear lot line, or from the rearmost point of the lot depth in cases where there is no rear lot line.

"Lot width mean" is the mean of the horizontal distances between the side lot lines measured at right angles to the lot depth at points distant thereon twenty (20) feet from the front lot line and twenty (20) feet from the rear lot line, or from the rearmost point of the lot depth in cases where there is no rear lot line.

"Major Conditional Use Permit" means a conditional use permit which involves any of the purposes listed in Section 17.134.020A.

“Major transit stop” is defined consistent with California Public Resources Code Section 21064.3, as may be amended; and means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two (2) or more major bus routes with a frequency of service interval of fifteen (15) minutes or less during the morning and afternoon peak commute periods.

"Major Variance" means a variance which involves any of the provisions listed in Section 17.148.020A.

"Mini-lot development" means a comprehensively designed development containing lots which do not meet the minimum size or other requirements applying to individual lots in the zone where it is located.

"Minor Conditional Use Permit" means a conditional use permit which does not involve any of the purposes listed in Section 17.134.020A.

"Minor Variance" means a variance which does not involve any of the provisions listed in Section 17.148.020A.

"Mixed use development" means an integrated development containing Residential, Commercial and/or Industrial Activities and adhering to a comprehensive plan and located on a single tract of land, or on two or more tracts of land which may be separated only by a street or other right-of-way, or which may be contained in a single building.

"Motel" means a facility designed for or occupied by Transient Habitation Commercial Activities, where access to individual units is predominantly by means of common exterior corridors or where off-street parking is in sufficiently close proximity to the units as to facilitate direct baggage handling by guests.

"Moving (of a Sign)" means rotation or any other movement of any portion of a Sign, except for normal movement of hands on a clock.

"Natural grade" means the surface of the ground prior to grading for development.

"Nonconforming activity" means an activity which, under the zoning regulations, is not itself a permitted activity where it is located or does not conform to the off-street parking or loading requirements, performance standards, or other requirements applying to activities. However, an activity of the character described above shall not be deemed a nonconforming activity to the extent that it has been or is hereafter authorized by a subsisting conditional use permit, variance, or other special zoning approval.

"Nonconforming facility" means a facility which, under the zoning regulations, is not itself a permitted facility where it is located or does not conform to the density, floor-area ratio, height, yard, court, landscaping or screening, or usable open space requirements; limitations on Signs; or other requirements applying to facilities. However, a facility of the character described above shall not be deemed a nonconforming facility to the extent that it has been or is hereafter authorized by a subsisting conditional use permit, variance, or other special zoning approval.

"Nonconforming use" means a nonconforming activity or a nonconforming facility.

"Non-taxable merchandise" means products, commodities, or items not subject to California state sales tax.

"Oakland Hills Fire" means the fire of October 20, 1991 in the hill area of the City of Oakland, which is the subject of local, state and federal emergency declarations and disaster proclamations. Said term includes the words "the fire."

"Path" means a dedicated public way intended for pedestrian movement.

"Paved surface" means an all-weather surface covered by concrete, asphalt, masonry, or a similar material and includes surfaces used for driveways, walkways, patios, and structures.

"Pawnbroking activity" means a commercial activity which features both the making of loans and the holding of jewelry, clothing, or other articles as security and which is conducted by a pawnbroker as defined in the Oakland Municipal Code.

"Performance standards" means regulations prescribed in the performance standards in Chapter 17.120 with respect to the emission by activities of noise, vibration, smoke, and other dangerous or objectionable matter or phenomena.

"Pitched roof" means any roof with one or more non-horizontal planes with each plane pitched at a vertical to horizontal ratio of no less than three to twelve (3:12).

"Plan Dimension" means the linear horizontal dimensions of a building or structure, at a given level, between the outside surfaces of its exterior walls.

"Planned Unit Development (PUD)" means a large, integrated development adhering to a comprehensive plan and located on a single tract of land, or on two (2) or more tracts of land which may be separated only by a street or other right-of-way.

"Planning official" means the Planning Official, or his or her designee.

"Poolroom activity" means the commercial operation of a public pool- or billiard room which has more than one pool table or billiard table.

"Potential Designated Historic Property (PDHP)" means any building or property that is determined by the City's Cultural Heritage Survey to have an existing or contingency rating of "A", "B", or "C", or to contribute or potentially contribute to an Area of Primary Importance (API) or an Area of Secondary Importance (ASI).

"Preservation District" means an area that has been included in the City's S-7 Preservation Combining Zone or the S-20 Historic Preservation District Combining Zone.

"Primary activity" means an activity which fulfills a primary function of an establishment, institution, household, or other entity.

"Primary dwelling unit" means a main building, room, or suite of rooms, including only one kitchen except as otherwise provided in Section 17.102.270, which is designed or occupied as the principal dwelling unit on a lot.

"Primary facility" means a main building or other facility which is designed for or occupied by a primary activity.

"Principal activity" means an activity which fulfills a primary function of an establishment, institution, household, or other entity.

"Principal building" means a main building that is occupied by a principal activity.

"Principal facility" means a main building or other facility which is designed for or occupied by a principal activity.

"Principal street" means on interior lots, the street that abuts a lot. On corner lots, the principal street is the street that abuts the lot that is highest on the street hierarchy as defined in the Land Use and Transportation Element of the General Plan. Where streets have the same street hierarchy, the principal street shall be determined by the Zoning Administrator based on the street widths, traffic capacity, land uses, transit activity, bicycle and pedestrian uses, and control of intersections.

"Private Access Easement" means a privately owned and maintained right-of-way which provides vehicular access to each of not more than four (4) lots. A private access easement allows the creation of no more than four (4) lots without street frontage, each with vehicular access on the easement. The area designated for the private access easement shall be excluded in computing minimum lot areas. A private access easement shall be a part of one or more lots. At the discretion of the Director of Public Works, based on considerations described in the City Planning Commission guidelines, the street entrance portion of the private access easement may be located within the public right-of-way. Private access easements shall not be named. Addresses for the living units served by the easement shall conform to the address range of the street upon which the easement abuts.

"Public facility" means and includes, but is not limited to, buildings, structures, marinas, and outdoor recreation areas owned by a local agency, as defined by the California State Government Code.

"Rapid transit" means a system of high-speed mass transit, often operating on exclusive rights-of-way, including but not limited to, the Bay Area Rapid Transit (BART) and Bus Rapid Transit (BRT) systems.

"Rear lot line" means the lot line which is opposite and most distant from the front lot line, and which is parallel to the front lot line or, if extended, would intersect with it at an angle of less than forty-five (45) degrees.

"Rear setback" or **"Rear yard setback"** means the setback from the rear lot line.

"Rear yard" means a yard measured into a lot from its rear lot line, provided that in cases where there is no rear lot line, the rear yard shall be measured into the lot from the rearmost point of the lot depth, parallel to said lot depth. Except where a rear yard is prescribed only for certain kinds of facilities or along only a portion of a lot line, a required rear yard shall extend the full width of the lot between its side lot lines.

"Recyclable materials" means residential, commercial and industrial materials or by-products, which are set aside, handled, packaged or offered for collection separate from garbage for the purpose of being processed and then returned to the economic mainstream in the form of commodities or products.

"Recycling area" means space allocated for collecting and loading recyclable materials. Such areas shall have the ability to accommodate receptacles for recycling materials.

"Recycling receptacles" means bins or containers that allow storage of recyclable materials.

"Regular dwelling unit" means any dwelling unit other than an efficiency dwelling unit.

"Residential Facility" means any structure, open area, or object which accommodates or is intended to accommodate Residential Activities. Residential Facilities also include such facilities as are customarily associated with, and are appropriate, incidental, and subordinate to Residential Activities.

"Residential Zone" means any zone with a name that contains the words "Residential Zone."

"Reversed corner lot" means a corner lot a side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

"Ringelmann number" means a number on the Ringelmann Chart, as standardized by the United States Bureau of Mines, used to measure the light-obscuring capacity of smoke, with a higher Ringelmann number corresponding to darker smoke.

"Rooming Unit" means a room or suite of rooms, not including a kitchen, designed or occupied as separate living quarters, with or without common boarding provisions, but excluding such rooms where they accommodate a total of three (3) or fewer paying guests within a One-Family Dwelling Residential Facility through the main portion of which access may be had to all such rooms; provided that in the case of student dormitories and similar group living arrangements, each two beds shall be deemed a rooming unit.

"Safety rail" means a guard rail, safety barrier, protective railing, or combination thereof.

"Sales Floor Area" means interior building space devoted to the sale of merchandise, but excludes restrooms, office space, storage space, automobile service areas, or open-air garden sales space. For the purpose of determining the total sales floor area of a single business establishment, the aggregate square footage of all adjacent stores that share common check

stands, management, a controlling ownership interest, warehouses, or distribution facilities shall be considered a single business establishment.

"Secondary Unit" means a subordinate dwelling unit that is located on the same lot as a larger primary dwelling unit, is either attached or detached, and meets the standards and criteria of Section 17.103.080.

"Secondhand merchandise activity" means any commercial activity which consists primarily of retail sale or rental from the premises of secondhand goods, other than secondhand jewelry, art objects, coins, stamps, motor vehicles, aircraft parts, or scrap.

"Setback" means the horizontal distance between a facility and the lot lines of the lot on which it is located.

"Setback line" means a line located inside the boundaries of a lot and parallel to a front, side, or rear lot line and set back from the front, side, or rear lot line a distance equal to the depth of the required front, side, or rear yard.

"Shared access facility" means a common driveway as defined in this Section or a private access easement as defined in this Section.

"Side lot line" means any lot line which is not a front lot line or a rear lot line.

"Side yard" means a yard measured into a lot from one or more of its side lot lines. Except where a side yard is prescribed only for certain kinds of facilities or along only a portion of a side lot line, a required side yard shall extend between the required front yard and rear yard, or the front or rear lot lines in cases where no front yard or rear yard is required.

"Single housekeeping unit" means one or more people living together as a relatively permanent household and bearing the character of a generic family such as sharing household activities, expenses, experiences, and responsibilities.

"Slope" means the deviation of a surface from the horizontal, expressed as a percentage.

"Slope, Down" (Downslope) means a downhill angle or slant of a surface in relation to the elevation of the edge of pavement of the abutting street or equivalent access facility.

"Slope, Up" (Upslope) means an uphill angle or slant of a surface in relation to the elevation of the edge of pavement of the abutting street or equivalent access facility.

"Sound pressure level" means the level of intensity of a sound.

"Special zone" means any zone the name of which begins with the letter "S" or "D".

"Story" means a portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between such floor and the ceiling next above it, provided that the following shall not be deemed a story:

1. A basement or cellar if the height from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least fifty percent (50%) of the perimeter and does not exceed twelve (12) feet above grade at any point;
2. An attic or similar space under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two (2) feet above the floor of such space.

"Street" means a dedicated public way, other than an alley or path, having a right-of-way not less than forty (40) feet in width, which is intended to afford the principal means of vehicular access to abutting properties, provided that any such way which was of record on October 6, 1953 shall be deemed a street regardless of width.

"Street line" means a lot line dividing a lot from an abutting street, or private way described in Section 17.106.020.

"Street side (of a corner lot)" means the side of a corner lot along any side lot line thereof which is a street line.

"Street side setback" or **"Street side yard setback"** means the setback from the street side lot line.

"Street to setback gradient" means the difference in topographic elevation along a perpendicular line that connects from the edge of the sidewalk closest to the front lot line, or, if there is no sidewalk, from the edge of the pavement, to the normally required front setback line, notwithstanding any reduced front yard setback that may be permitted on steep slopes. The measurement shall be taken at the midpoint of the front lot line, or the closest point to the midpoint excluding any driveways, stairs and other built structures.

"Structure" means any facility which is constructed or erected, and which is located on the ground or is attached to something having location on the ground.

"Substitution (of activities)" means the replacement of an existing activity by a new activity, or a change in the nature of an existing activity, but not including a change of ownership, tenancy, or management where the previous line of business or other function is substantially unchanged.

"Tandem parking" means an arrangement of parking spaces such that one or more spaces must be driven across in order to access another space or spaces. A space which can only be accessed by driving across another space is called a dependent parking space. A space which can be accessed without driving across another space is called an independent parking space. (See also "Dependent parking space" and "Independent parking space" in this Section.)

"Through lot" means a lot that is bounded on two opposite sides by generally parallel streets. Any lot that meets the definition of both a through lot and a corner lot shall be deemed to be a corner lot.

"Tobacco oriented activities" are defined as activities devoting any floor area or display area to or deriving any gross sales receipts from, the sale or exchange of tobacco-related products with the exception of (a) stores with over ten thousand (10,000) square feet of total sales area, provided the floor area devoted to tobacco sales does not exceed twenty (20) percent of the overall store area or display area or seventy-five (75) percent of gross sales receipts from, the sale or exchange of tobacco-related products, or (b) activities selling tobacco-related products in conjunction with Automotive Servicing Commercial Activities defined in Section 17.10.470 (Gasoline Stations), provided the floor area devoted to tobacco sales does not exceed twenty (20) percent of the overall store area or display area or seventy-five (75) percent of gross sales receipts from the sale or exchange of tobacco-related products.

"Tobacco-related products" are defined as any substance containing tobacco including but not limited to cigarettes, cigars, chewing tobacco and dipping tobacco; cigarette papers; or any other instrument or paraphernalia for the smoking or ingestion of tobacco and products prepared from tobacco.

"Tower" means any building area constructed over the building base.

"Unfinished understories, attics and basements" means the portions of a building that have not been converted or improved into "Habitable Space", as defined in the Oakland Building Code, and are located above and below the highest and lowest habitable story or stories.

"Upper story" means either:

1. Any story located above the bottommost story of a building; or
2. Any story with finished floor located at least twelve (12) feet above finished grade at any point along the building perimeter.

"Use" means an activity or a facility.

"Working day" means a day when City offices are open for conducting of City business.

"Yard" means an area between a facility and some lot line, measured for a specified distance, in a horizontal plane, perpendicularly between such facility and lot line; located on the same lot as said facility; and open and unobstructed except for the facilities allowed therein by Section 17.108.130.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12872 § 4 (part), 2008; Ord. 12868 § 2, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006; Ord. 12772 § 1 (part), 2006; Ord. 12675 § 3 (part), 2005; Ord. 12547 § 3 (part), 2003; Ord. 12376 § 3 (part), 2001; Ord. 12205 § 4 (part), 2000; Ord. 12199 § 3 (part), 2000; Ord. 12147 § 3 (part), 1999; Ord. 12138 § 4 (part), 1999; Ord. 12054 § 1(c), 1998; Ord. 11895 §§ 3—5, 1996; Ord. 11831 § 2, 1995; Ord. 11807 § 2, 1995; prior planning code §§ 2110—2130)

17.09.050 Special definitions for projects in the Open Space (OS) Zone.

A. **"Change in use"** means any activity which is not already established in the particular park or open space, or the significant expansion of any existing use. Changes in the ongoing, regularly-scheduled recreational programs offered by the City of Oakland, regional park district, and similar agencies shall not be considered "changes in use" unless they involve permanent structural changes to parks or park facilities. Conditionally permitted changes in use are listed in Sections 17.11.050, 17.11.060 and 17.11.090.

B. **"Improvement"** means any project which, if proposed by a private applicant, would require issuance of a building, grading, or demolition permit by the City of Oakland. Parking lots shall also be included. Routine building and grounds maintenance where there is no change in the size, height, or external appearance of structures or grounds; and routine landscaping and/or landscape improvements, including irrigation systems, are not included. Conditionally permitted improvements are listed in Sections 17.11.050, 17.11.060 and 17.11.090.

C. **"Impervious surface"** means any surface through which water does not easily pass. Impervious surface specifically includes all structures; paving materials such as brick, concrete, asphalt, or stone; swimming pools; and patios and terraces. Impervious surface does not include landscaping or furniture, play equipment, kiosks, or other individual articles used in conjunction with landscaping which individually do not cover more than ten (10) square feet and cumulatively do not cover more than one hundred (100) square feet.

D. **"Open space of comparable value"** means land acquired or improved by the City that is approximately equal in its potential for recreational use to land elsewhere in the City proposed for coverage by a structure or impervious surface. For the purposes of this definition, comparable value shall be based on slope, total area, dimensions, vegetation, and proximity to water features.

E. **"Caretaker's quarters"** means a single living unit occupied on a weekly or longer basis on public parkland where the primary occupant of the residence is employed to maintain the grounds and facilities of the associated park.

F. **"Street furniture"** means furnishings used to enhance the aesthetic and functional value of a park or open space, including benches, tables, planter boxes, flagpoles, water fountains, decorative trash bins, ornamental fixtures, and similar features. Map boards and kiosks are excluded. For zoning purposes, street furniture is classified into projects whose individual components sum to more than one hundred (100) square feet and those whose components sum to less than one hundred (100) square feet.

G. **"No net loss"** means a state in which the square footage of useable parkland added to the City's park inventory since July 28, 1998, is equal to or greater than the square footage of urban parkland covered by structures since that date. Lands within the jurisdiction of the Port of Oakland and lands classified as "Resource Conservation Areas" are excluded from this calculation. Structures smaller than one hundred (100) square feet shall also be exempt from this calculation.

H. **"Urban parkland"** means any parkland in the City of Oakland that is not designated a "Resource Conservation Area," excluding those lands within the jurisdiction of the Port of Oakland.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12078 § 7, 1998)

Chapter 17.10 USE CLASSIFICATIONS
Sections:

Article I - General Classification Rules

Article II - Activity Types
Part 1 - Residential Activity Types

Part 2 - Civic Activity Types

Part 3 - Commercial Activity Types

Part 4 - Industrial Activity Types

Part 5 - Agricultural and Extractive Activity Types

Article III - Facility Types
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Article I General Classification Rules
17.10.010 Title, purpose, and applicability.

17.10.020 Definitions.

17.10.030 Listing of activity classifications.

17.10.040 Accessory activities.

17.10.050 Classification of combinations of principal activities.

17.10.060 Listing of facility classifications.

17.10.070 Accessory facilities.

17.10.080 Classification of combinations of principal facilities.

17.10.090 Classification of unlisted uses.

17.10.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Use Classifications. The purpose of these provisions is to classify uses into a number of specially defined types on the basis of common functional characteristics and similar compatibility with other uses, thereby providing a basis for regulation of uses in accordance with criteria which are directly relevant to the public interest. These provisions shall apply throughout the zoning regulations.

(Prior planning code § 2200)

17.10.020 Definitions.

"Activity" means the performance of a function or operation.

"Facility" means a structure, open area, or other physical contrivance or object.

(Prior planning code § 2201)

17.10.030 Listing of activity classifications.

All activities are classified into the following activity types, which are described in Article II of this Chapter. (See Section 17.10.050 for classification of combinations of activities resembling different types.) The names of these activity types start with capital letters throughout the zoning regulations.

A. Residential Activities:

Permanent

Residential Care

Supportive Housing

Transitional Housing

Emergency Shelter

Semi-Transient

Bed and Breakfast

B. Civic Activities:

Essential Service

Limited Child-Care

Community Assembly

Recreational Assembly

Community Education

Nonassembly Cultural

Administrative

Health Care

Special Health Care

Utility and Vehicular

Extensive Impact

C. Commercial Activities:

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Fast-Food Restaurant

Convenience Market

Alcoholic Beverage Sales

Mechanical or Electronic Games

Medical Service

General Retail Sales

Large-Scale Combined Retail and Grocery Sales

Consumer Service

Consultative and Financial Service

Check Cashier and Check Cashing

Consumer Cleaning and Repair Service

Consumer Dry Cleaning Plant

Group Assembly

Personal Instruction and Improvement Services

Administrative

Business, Communication, and Media Service

Broadcasting and Recording Service

Research Service

General Wholesale Sales

Transient Habitation

Building Material Sales

Automobile and Other Light Vehicle Sales and Rental

Automobile and Other Light Vehicle Gas Station and Servicing

Automotive and Other Light Vehicle Repair and Cleaning

Taxi and Light Fleet-Based Service

Automotive Fee Parking

Animal Boarding

Animal Care

Undertaking Service

D. Industrial Activities:

Custom Manufacturing

Light Manufacturing

General Manufacturing

Heavy/High Impact Manufacturing

Research and Development

Construction Operations

Warehousing, Storage and Distribution

Regional Freight Transportation

Trucking and Truck-Related

Recycling and Waste-Related

Hazardous Materials Production, Storage and Waste Management

E. Agricultural and Extractive Activities:

Plant Nursery

Limited Agriculture

Extensive Agriculture

Mining and Quarrying

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12138 § 4 (part), 1999; Ord. 12072 § 4, 1998; Ord. 11904 § 5.02, 1996; prior planning code § 2210)

17.10.040 Accessory activities.

In addition to the principal activities expressly included therein, each activity type shall be deemed to include such activities as are customarily associated with, and are appropriate, incidental, and subordinate to, such a principal activity; are located on the same lot as such principal activity except as otherwise provided in Subsections A., J., and K. of this Section; and meet the further conditions set forth hereinafter. Such accessory activities shall be controlled in the same manner as the principal activities within such type except as otherwise expressly provided in the zoning regulations. Such accessory activities include, but are not limited to, the activities indicated below, but exclude the sale of alcoholic beverages to the general public

except at a full-service restaurant or at an alcoholic beverage manufacturer, as described in Sections 17.10.550, 17.10.560, and 17.103.030. (See also Section 17.10.050 for additional activities included within activity types in the case of combinations of different principal activities.)

A. Off-street parking and loading serving a principal activity, whether located on the same lot thereas or on a different lot, but only if the facilities involved are reserved for the residents, employees, patrons, or other persons participating in the principal activity;

B. Home occupations, subject to the applicable provisions of the home occupation regulations in Chapter 17.112;

C. Residential occupancy in connection with a principal Nonresidential Activity on the same lot, but only:

   1. If the residents are required to remain on the premises for protective, conference, or comparable technical purposes, or

   2. As joint living and work quarters subject to the applicable provisions of Section 17.102.190;

D. Operation of an employee cafeteria by a firm engaging in a principal Nonresidential Activity on the same lot;

E. Sale of goods on the same lot as a principal Civic Activity, but only if such goods are available only to persons participating in the principal activity;

F. Production of goods for sale by a firm engaged in a principal Commercial Activity on the same lot, but only if:

   1. All goods so produced are sold at retail by the same firm either on the same or other lots, and

   2. Such production does not occupy more than seventy-five percent (75%) of the total floor area and open sales, display, storage, and service area occupied by such firm on the lot, and

   3. Such production does not occupy more than three thousand (3,000) square feet of such floor area and open area;

G. Storage of goods sold by a principal Commercial Activity, or used in or produced by a principal Industrial Activity, engaged in by the same firm on the same lot;

H. Operation of an administrative office of a firm engaged in a principal Industrial Activity on the same lot, but only if such office does not occupy more than fifty percent (50%) of the total floor area and open sales, display, storage, and service area occupied by such firm on the lot;

I. Wholesale sale, or retail sale of goods produced by a principal Industrial Activity on the same lot;

J. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time;

K. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five (5) or more lots;

L. Benches, street furniture, lighting, public art, sheds, and similar infrastructure associated with city and regional parks;

M. Public restrooms serving park and recreational facilities.

N. Car-sharing services and parking spaces are considered accessory to all activities, as long as required parking space for that activity is not taken by car-sharing trucks and automobiles. Car-sharing services are considered accessory to all facility types, excepting: One-Family Dwellings, One-Family Dwellings with Secondary Units, Two-Family Dwellings, and Rooming Houses.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12078 § 5 (part), 1998; prior planning code § 2211)

17.10.050 Classification of combinations of principal activities.

The following rules shall apply where a single lot contains activities which resemble two or more different activity types and which are not classified by Section 17.10.040 as accessory activities:

A. **Separate Classification of Each Establishment.** The principal activities conducted on a single lot by each individual establishment, management, or institution shall be classified separately.

B. **Separate Classification of Different Major Classes of Activities Conducted by Single Establishment.** If the principal activities conducted on a single lot by a single establishment, management, or institution resemble two or more different major classes of activities—Residential, Civic, Commercial, Industrial, or Agricultural and Extractive Activities—the principal activities resembling each major class shall be classified separately.

C. **Classification of Different Activities within Same Major Class, Conducted by Single Establishment.** If principal activities conducted on a single lot by a single establishment, management, or institution resemble two or more different activity types within the same major class of activities, all such principal activities shall be classified in the activity type within said class the description of which type most closely portrays the overall nature of such activities. However, when they have any of the characteristics of Utility and Vehicular, Health Care, or Extensive Impact Civic Activities; Alcoholic Beverage Sales or General Wholesale Sales Commercial Activities; General Manufacturing, Heavy/High Impact Manufacturing, or Warehousing, Storage, and Distribution-Automotive Salvage/Junk Yards Industrial Activities; or Limited Agriculture, Extensive Agriculture, or Mining and Quarrying Agricultural or Extractive Activities, all such principal activities within the same major class of activities as any of such types shall be classified within that one of such types the description of which most closely portrays said principal activities; except that all such Industrial Activities shall be classified within the Warehousing, Storage, and Distribution-Automotive Salvage/Junk Yards Industrial Activities type if they have any of its characteristics, and all such Industrial Activities shall be classified within the Heavy/High Impact Industrial Activities type if they have any of its characteristics.

D. **Classification of Different Activities within the Same Major Class Conducted on the Site of an Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activity.** All principal activities conducted on the site of an Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activity shall be classified as Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities regardless of separate ownership or management, unless said principal activity is listed as a Conditionally Permitted Activity pursuant to the individual

zone regulations and such principal activity requires a Major Conditional Use Permit pursuant to Section 17.134.020.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; prior planning code § 2213)

17.10.060 Listing of facility classifications.

All facilities are classified into the following facility types, which are described in Section Article III of this Chapter. (See Section 17.10.080 for classification of combinations of facilities resembling different types.) The names of these facility types start with capital letters throughout the zoning regulations.

A. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit

Two-Family Dwelling

Multifamily Dwelling

Rooming House

Mobile Home

B. Nonresidential Facilities:

Enclosed

Open

Drive-in

Sidewalk Cafe

Drive-Through

C. Signs:

Residential

Special

Development

Realty

Civic

Business

Advertising

D. Telecommunications Facilities:

Micro Telecommunications

Mini Telecommunications

Macro Telecommunications

Monopole Telecommunications

Tower Telecommunications

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 11904 § 5.03, 1996; prior planning code § 2220)

17.10.070 Accessory facilities.

In addition to the principal facilities expressly included therein, each Residential and Nonresidential Facility type shall be deemed to include such facilities as are customarily associated with, and are appropriate, incidental, and subordinate to, such a principal facility; are located on the same lot as such principal facility except as otherwise provided in Subsections A., F., and G. of this Section; and meet the further conditions set forth hereinafter· Such accessory facilities shall be controlled in the same manner as the principal facilities within such type except as otherwise expressly provided in the zoning regulations. They include but are not limited to the following facilities, but shall not be deemed to include Signs, which are classified and controlled separately:

A. Off-street parking and loading facilities serving a principal Residential or Nonresidential Facility, whether located on the same lot thereas or on another lot, but only if they are reserved for the residents, employees, patrons, or other persons utilizing the principal facility;

B. Open areas devoted to decorative paving or to swimming pools, located on the same lot as a principal facility;

C. Storage and service areas and accessory buildings, other than those listed elsewhere in this Section, if serving a principal facility on the same lot; provided, however, that no such facilities which are unenclosed shall qualify as accessory to any principal Enclosed Nonresidential Facility except for open areas, not exceeding two hundred (200) square feet each, for the temporary storage of trash;

D. A single trailer incidental to and on the same lot as principal Residential Facilities, but only if said trailer is not intended for habitation while it is on the lot;

E. Living quarters in connection with a principal Nonresidential Facility on the same lot, but only:

    1. If the residents are required to remain on the premises for protective, conference, or comparable technical purposes, or

    2. As joint living and work quarters subject to the applicable provisions of Section 17.102.190;

F. Temporary construction yards and similar facilities which are necessary and incidental to development of facilities on the same lot, or on another of several lots being developed at the same time;

G. A temporary real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.

(Prior planning code § 2221)

17.10.080 Classification of combinations of principal facilities.

If the facilities on a single lot resemble two or more different facility types, each facility which is not classified by Section 17.10.070 as an accessory facility shall be classified separately.

(Prior planning code § 2223)

17.10.090 Classification of unlisted uses.

Any activity or facility which is not expressly classified within an activity type or facility type shall be included in that type the description of which most closely portrays it, subject to the applicable provisions of Sections 17.10.050 and 17.10.080 with respect to combinations of uses. In case of uncertainty as to the classification of any use, the Director of City Planning shall classify said use, subject to the right of appeal from such determination pursuant to the administrative appeal procedure in Chapter 17.132.

(Prior planning code § 2230)

Article II Activity Types

Part 1 Residential Activity Types

17.10.100 General description of Residential Activities.

17.10.110 Permanent Residential Activities.

17.10.112 Residential Care Residential Activities.

17.10.114 Supportive Housing Residential Activities.

17.10.116 Transitional Housing Residential Activities.

17.10.118 Emergency Shelter Residential Activities.

17.10.120 Semi-Transient Residential Activities.

17.10.125 Bed and Breakfast Residential Activities.

17.10.100 General description of Residential Activities.

Residential Activities include the occupancy of living accommodations on a wholly or primarily nontransient basis, except for transient occupancy of Emergency Shelters; but exclude institutional living arrangements other than those that are defined as Residential Care, Supportive Housing, Transitional Housing, and Emergency Shelter Residential Activities. This

classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 4 (part), 1999: prior planning code § 2250)

17.10.110 Permanent Residential Activities.

Permanent Residential Activities include the occupancy of living accommodations on a weekly or longer basis, with none of the living units under the same ownership or management on the same lot being occupied on a shorter basis; but exclude institutional living arrangements other than state-licensed Residential Care Facilities for six (6) or fewer residents. However, such state-licensed Residential Care Facilities shall be subject to the three hundred (300) foot separation requirement in Section 17.103.010.B. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 4 (part), 1999: prior planning code § 2260)

17.10.112 Residential Care Residential Activities.

Residential Care Residential Activities include all Residential Care Facilities that require a state license or are state licensed for seven (7) or more residents which provide twenty-four (24) hour primarily nonmedical care and supervision. Occupancy of living accommodations by six (6) or fewer residents are excluded. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. State licensed Residential Care Facilities for six (6) or fewer residents shall be treated as Permanent Residential Activities except with regard to the three hundred (300) foot separation requirement in Section 17.103.010.B.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 4 (part), 1999)

17.10.114 Supportive Housing Residential Activities.

Supportive Housing Residential Activities include housing: (a) with no limit on length of stay; (b) that is linked to an onsite or offsite service that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community; and (c) that is occupied by the following target population (as defined in subdivision (g) of Government Code Section 65582):

A. Adults with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions and may, among other populations, include adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people; or

B. Individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code), who include individuals with a disability that originated before the individual was eighteen (18) years old, but not including handicapping conditions that are solely physical in nature.

Supportive Housing shall only be subject to those restrictions that apply to other residential dwellings of the same facility type in the same zone (Government Code Section 65583(a)(5)).

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 4 (part), 1999)

17.10.116 Transitional Housing Residential Activities.

Transitional Housing Residential Activities (per State of California Government Code 65582(h), as may be amended) include housing configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months from beginning of assistance.

Transitional Housing shall only be subject to those restrictions that apply to other residential dwellings of the same facility type in the same zone (Government Code Section 65583(a)(5)).

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 4 (part), 1999)

17.10.118 Emergency Shelter Residential Activities.

Emergency Shelter Residential Activities include the provision of short term housing, partly on a less-than-weekly basis and partly for a longer period, with or without a fee, to individuals who are homeless and who may require special services. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 4 (part), 1999)

17.10.120 Semi-Transient Residential Activities.

Semi-Transient Residential Activities include the occupancy of living accommodations partly on a weekly or longer basis and partly for a shorter time period, but with less than thirty percent (30%) of the living units under the same ownership or management on the same lot being occupied on a less-than-weekly basis; but exclude institutional living arrangements involving the provision of a special kind of care or forced residence, such as in nursing homes, orphanages, asylums, and prisons. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 2261)

17.10.125 Bed and Breakfast Residential Activities.

The provision of lodging services to transient guests on a less-than-weekly basis, other than in the case of activities classified by another Residential Activity (Sections 17.10.100 through 17.10.120) that have each of the following characteristics:

A. The activity occupies a One-Family Dwelling Residential Facility, One-Family Dwelling with Secondary Unit Residential Facility, or a Two-Family Dwelling Residential Facility;

B. The activity allows no more than twelve (12) adult paying guests at any time and contains no more than six (6) guest units;

C. The activity is located in a facility that is owner occupied;

D. The activity is located in a facility on a property with an existing or contingency historic rating of "A", "B", "C", or "D", or is a Landmark according to the City of Oakland Office of Historic Preservation;

E. The facility includes incidental eating and drinking services for lodgers only that are provided from a single kitchen per bed and breakfast establishment.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

Part 2 Civic Activity Types

17.10.130 General description of Civic Activities.

17.10.140 Essential Service Civic Activities.

17.10.150 Limited Child-Care Activities.

17.10.160 Community Assembly Civic Activities.

17.10.170 Recreational Assembly Civic Activities.

17.10.180 Community Education Civic Activities.

17.10.190 Nonassembly Cultural Civic Activities.

17.10.200 Administrative Civic Activities.

17.10.220 Health Care Civic Activities.

17.10.225 Special Health Care Civic Activities.

17.10.230 Utility and Vehicular Civic Activities.

17.10.240 Extensive Impact Civic Activities.

17.10.250 Reserved.

17.10.130 General description of Civic Activities.

Civic Activities include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other activities which are strongly vested with public or social importance. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 2300)

17.10.140 Essential Service Civic Activities.

Essential Service Civic Activities include the maintenance and operation of the following installations:

A. Electric, gas, and telephone distribution lines and poles, and water, storm drainage, and sewer lines, with incidental appurtenances thereto, but excluding electric transmission lines;

B. Community gardens. For the purpose of this classification, Community Gardens are defined as land that is used for the cultivation of fruits, vegetables, plants, flowers, herbs, ornamental plants, and/or animal products and livestock production by one (1) or more persons for personal consumption and/or donation. This classification does not include the use of heavy mechanized farming equipment, or commercial sales on or off the premises, except for limited seasonal sales. Any keeping, grazing, or feeding of animals must conform to all applicable regulations, including but not limited to, Municipal Code Chapters 6.04, 8.14, and 8.18;

C. Botanical gardens;

D. Private streets;

E. Public polling places;

F. Freeways, rapid transit routes, streets, alleys, and paths, but excluding activities on, under, or over such ways which activities are not customarily appurtenant thereto;

G. Seasonal retail sales conducted for a limited duration under valid license or lease on property owned by the City;

H. Police and Fire stations;

I. Post offices, but excluding major mail processing centers;

J. Telecommunications activities including the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

K. All activities not classified elsewhere in the use regulations that are conducted on City and regional parklands and which are specifically referenced in master plans which are adopted by the Oakland City Council.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12078 § 5 (part), 1998; prior planning code § 2310)

17.10.150 Limited Child-Care Activities.

Limited Child-Care Civic Activities include the provision of day-care service for fourteen (14) or fewer children, provided, however, that care for six (6) or more children be provided only in facilities licensed by a state or county agency. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 2311)

17.10.160 Community Assembly Civic Activities.

Community Assembly Civic Activities include the provision of civic activities to assembled groups of spectators or participants at the following institutions or installations. Examples of activities in this classification include but are not limited to the following:

- Churches, temples, synagogues, and other similar places of worship;
- Public and private nonprofit clubs, lodges, meeting halls, and recreation centers;
- Community, cultural, and performing arts center;
- Public and nonprofit gymnasiums and indoor swimming pools.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.170 Recreational Assembly Civic Activities.

Recreational Assembly Civic Activities include the provision of recreational activities, typically performed by participants within public facilities. Examples of activities in this classification include but are not limited to the following:

- Food service and other concessions located within public parks;
- Public and parochial playgrounds and playing fields;
- Temporary nonprofit festivals;
- Basketball courts, tennis courts, handball courts, lawn bowling, leisure areas, and similar outdoor park and recreational facilities;
- Community outdoor swimming and wading pools, and other water play features;
- Picnic areas.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

Editor's note—

Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009, amended Section 17.10.170 in its entirety to read as herein set out. Formerly, Section 17.10.170 pertained to community assembly civic activities, and derived from the prior planning code § 2314, and Ord. No. 12078, § 5, adopted 1998.

17.10.180 Community Education Civic Activities.

Community Education Civic Activities include the activities typically performed by the following institutions:

A. Public and private day-care centers for fifteen (15) or more children;

B. Public and private nursery schools and kindergartens;

C. Public and private elementary, junior high, and high schools;

D. Support services provided for independent living skills development including self-improvement education, employment and job training for both on-site and off-site residents in conjunction with Residential Activities.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 4 (part), 1999: prior planning code § 2316)

17.10.190 Nonassembly Cultural Civic Activities.

Activities that are primarily engaged in the display or preservation of objects of interest in the arts or sciences, for public, or private non-profit purposes. Examples of activities in this classification include but are not limited to the following:

- Publicly owned and nonprofit art galleries;
- Plant conservatories;
- Libraries;
- Museums;
- Observatories.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12078 § 5 (part), 1998; prior planning code § 2317)

17.10.200 Administrative Civic Activities.

Administrative Civic Activities include the activities typically performed by government and public utility administrative offices. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 2318)

17.10.220 Health Care Civic Activities.

Health Care Civic Activities include all activities which primarily provide medical care and supervision other than those defined elsewhere in the Zoning Regulations. Examples of activities in this classification include, but are not limited to, the following:

A. Health clinics;

B. Hospitals;

C. Skilled nursing, extended care, and assisted living facilities, all of which provide medical care on site;

D. Nonresidential centers providing psychological or family counseling and mental hygiene services to individuals or groups;

E. Support services which include regular individualized case management for both on-site and offsite residents in conjunction with Residential Activities;

F. Facilities which provide inpatient and/or outpatient medical and/or psychological treatment for mental illness, substance and alcohol abuse and addiction;

G. State licensed "Adult Day Care Facilities" and "Adult Day Support Centers".

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 4 (part), 1999: prior planning code § 2320)

17.10.225 Special Health Care Civic Activities.

Special Health Care Civic Activities include all activities defined by Health Care Civic Activities in Subsection 17.10.220.F. (Health Care Civic Activities: Facilities which provide inpatient and/or outpatient medical and/or psychological treatment for mental illness, substance and alcohol abuse and addiction) when such services are provided primarily to persons who currently use hypodermic needles to illegally inject controlled substances and where such services may include needle exchange, drug treatment, drug counseling or such other health services frequently required by persons currently using hypodermic needles to illegally inject controlled substances. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12450, § 3, 2002)

17.10.230 Utility and Vehicular Civic Activities.

Utility and Vehicular Civic Activities include the maintenance and operation of the following installations:

A. Communications equipment installations and exchanges, but excluding Telecommunications Activities specified in Section 17.10.140 Essential Civic Service Activities;

B. Electrical substations;

C. Gas substations;

D. Neighborhood newscarrier distribution centers;

E. Publicly operated off-street parking lots and garages available to the general public either without charge or on a fee basis.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 2321)

17.10.240 Extensive Impact Civic Activities.

Extensive Impact Civic Activities include the activities typically performed by, or the maintenance and operation of, the following institutions and installations:

A. Airports, heliports, and helistops;

B. Cemeteries, mausoleums, columbariums, and crematories;

C. Colleges, junior colleges, and universities, but excluding business schools operated as profit-making enterprises;

D. Detention and correction institutions;

E. Docks and wharves operated by a public agency;

F. Electric transmission lines;

G. Garbage dumps;

H. Golf courses and driving ranges;

I. Major mail-processing centers;

J. Military installations;

K. Public and public utility corporation or truck yards;

L. Radio and television transmission stations;

M. Railroad and bus terminals;

N. Railroad rights-of-way and yards and bus storage areas;

O. Reservoirs and water tanks;

P. Sewage disposal tanks;

Q. Stadiums, sports arenas, auditoriums, and bandstands;

R. Truck terminals operated by a public agency;

S. Zoological gardens and wildlife preserves;

T. Campgrounds;

U. Stormwater detention ponds and facilities;

V. Facilities supervised by or under contract with the State Department of Corrections, including alternative sentencing and community work release programs.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 4 (part), 1999; Ord. 12078 § 5 (part), 1998; prior planning code § 2322)

17.10.250 Reserved.

Editor's note—

Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009, repealed the former Section 17.10.250 in its entirety, which pertained to telecommunication activities, and derived from the prior planning code § 2323, and Ord. No. 11904, § 5.05, adopted 1996.

Part 3 Commercial Activity Types [1]

17.10.260 General description of Commercial Activities.

17.10.270 General Food Sales Commercial Activities.

17.10.272 Full Service Restaurant Commercial Activities.

17.10.274 Limited Service Restaurant and Cafe Commercial Activities.

17.10.280 Fast-Food Restaurant Commercial Activities.

17.10.290 Convenience Market Commercial Activities.

17.10.300 Alcoholic Beverage Sales Commercial Activities.

17.10.320 Mechanical or Electronic Games Commercial Activities.

17.10.330 Medical Service Commercial Activities.

17.10.340 General Retail Sales Commercial Activities.

17.10.345 Large-Scale Combined Retail and Grocery Sales Commercial Activities.

17.10.350 Consumer Service Commercial Activities.

17.10.360 Consultative and Financial Service Commercial Activities.

17.10.365 Check Cashier and Check Cashing Commercial Activities.

17.10.370 Consumer Cleaning and Repair Service Commercial Activities.

17.10.375 Consumer Dry Cleaning Plant Commercial Activities.

17.10.380 Group Assembly Commercial Activities.

17.10.385 Personal Instruction and Improvement Services Commercial Activities.

17.10.390 Administrative Commercial Activities.

17.10.400 Business, Communication, and Media Service Commercial Activities.

17.10.410 Broadcasting and Recording Service Commercial Activities.

17.10.420 Research Service Commercial Activities.

17.10.430 General Wholesale Sales Commercial Activities.

17.10.440 Transient Habitation Commercial Activities.

17.10.450 Building Material Sales Commercial Activities.

17.10.460 Automobile and Other Light Vehicle Sales and Rental Commercial Activities.

17.10.470 Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities.

17.10.480 Automobile and Other Light Vehicle Repair and Cleaning Commercial Activities.

17.10.485 Taxi and Light Fleet-Based Service Commercial Activities.

17.10.490 Automotive Fee Parking Commercial Activities.

17.10.500 Reserved.

17.10.505 Animal Boarding Commercial Activities.

17.10.510 Animal Care Commercial Activities.

17.10.520 Undertaking Service Commercial Activities.

17.10.260 General description of Commercial Activities.

Commercial Activities include the distribution and sale or rental of goods; the provision of services other than those classified as Civic Activities; and the administrative and research operations of private, profit-oriented firms, other than public utility firms. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.270 General Food Sales Commercial Activities.

General Food Sales Commercial Activities include the retail sales of food or beverages for off-site preparation and consumption. This classification includes, but is not limited to, the following:

A. Supermarkets or grocery stores that that offer a variety of food items for home consumption such as a combination of fresh fruits, vegetables, breads, meat, dairy products, cereals, pastas, and prepackaged foods. Generally, grocery stores are a minimum five thousand (5,000) square feet and have a minimum twenty percent (20%) of net retail floor area devoted to the display of fresh fruits and vegetables and/or fresh meats, whichever is greater.

B. Stores specializing in particular or distinctive food items, including but not limited to, retailers whose primary business maintains an inventory of specialty, gourmet, health, or ethnic food items. Examples of activities in this classification include, but are not limited to, the following:

- Gourmet food stores;
- Bakeries;

- Butchers;
- Specialty food stores;
- Fish and poultry shops;
- Produce markets;
- Delicatessens (may include sandwich shops in conjunction with the sale of other delicatessen products);
- Health food stores.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.272 Full Service Restaurant Commercial Activities.

Full Service Restaurant Commercial Activities include the provision of food or beverage services to patrons who order and are served while seated (table service), and pay after eating. Only a minor proportion, if any, of the food is sold for consumption off-premises. These restaurants have kitchens that contain equipment suitable for cooking an assortment of foods. Also, see Sections 17.103.130 and 17.156.070 for definitions of a full-service restaurant in relation to Alcoholic Beverage Sales. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.274 Limited Service Restaurant and Cafe Commercial Activities.

Limited Service Restaurant and Cafe Commercial Activities include the provision of food or beverage services to patrons that generally order and pay before eating. Food and beverages may be served in disposable containers and may be consumed on the premises or taken out. Seating for on-premises consumption is usually available and table service may or may not be provided. Examples of these activities include, but are not limited to, cafes and restaurants that do not fall under 17.10.272 Full Service Restaurant or 17.10.280 Fast-food Restaurant Commercial Activities. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.280 Fast-Food Restaurant Commercial Activities.

A. Fast-Food Restaurant Commercial Activities include the retail sale of ready-to-eat prepared foods and beverages, for on- or off-premises consumption, whenever the foods and beverages are available upon a short waiting time and are primarily served in or on disposable wrappers, containers, or plates. Fast-Food Restaurants may also exhibit other design and operating characteristics, including: (1) a limited menu; (2) food is typically ordered and served at a service counter; (3) food is paid for prior to consumption; (4) the

facility in which the activity/use is occurring provides a take-out counter space and space for customer queuing. They also include certain activities accessory to the above, as specified in Section 17.10.040.

B. Except as may otherwise be allowed in Oakland Municipal Code (OMC) Chapters 5.49, 5.51, 8.09, and 9.52, the sale of ready-to-consume prepared foods from trucks, pushcarts or other movable equipment located on public or private property on a semi-permanent basis during hours of operation. Vehicular food vending generally has the following characteristics:

- Food is ordered and served from a take-out counter that is integral to the catering truck;
- Food is paid for prior to consumption;
- Catering trucks, pushcarts or other movable equipment from which the food is sold typically have a take-out counter and space for customer queuing;
- Food and beverages are served in disposable wrappers, plates or containers; and
- Food and beverages are prepared and sold for off-site consumption.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, renumbered the former Sections 17.10.280 (Convenience market commercial activities) and 17.10.290 (Fast-food restaurant commercial activities) as Sections 17.10.290 and 17.10.280, respectively. The historical notation has been preserved for reference purposes.

17.10.290 Convenience Market Commercial Activities.

Convenience Market Commercial Activities include the retail sale of food, beverages, and small personal convenience items, primarily for off-premises consumption and typically found in establishments with long or late hours of operation and a relatively small building; but exclude delicatessens and other specialty food shops, establishments that have a sizeable amount of highly perishable items such as fresh fruits and vegetables, fresh-cut meat. In general, "late hours of operation" means businesses that stay open until or after 10:00 p.m. or at or before 7:00 a.m.; "relatively small building" means a building that is less than five thousand (5,000) square feet; and "a sizeable amount of highly perishable items" means at least twenty percent (20%) of net retail floor area devoted to fresh fruits and vegetables and/or fresh meats, whichever is greater, devoted to these products. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

Editor's note—

See editor's note at Section 17.10.280

17.10.300 Alcoholic Beverage Sales Commercial Activities.

Alcoholic Beverage Sales Commercial Activities include the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, but exclude full-service restaurants and alcoholic beverage manufacturers. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.320 Mechanical or Electronic Games Commercial Activities.

Mechanical or Electronic Games Commercial Activities include the provision of pinball machines, video game devices, or other mechanical or electronic games, as defined in the Oakland Municipal Code, where the games can be played or operated by the public or by customers; but exclude the provision of such games in a pool or billiard room or bowling alley for which a permit is required pursuant to Chapter 5.02 of the Oakland Municipal Code and from which persons under eighteen (18) years of age are barred at all times by the owner or operator, or in premises which are licensed by the State Department of Alcoholic Beverage Control for on-sale consumption of alcoholic beverages and which do not lawfully allow minors. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.330 Medical Service Commercial Activities.

Medical Service Commercial Activities include the provision of therapeutic, preventive, or corrective personal treatment services by physicians, dentists, psychotherapists, and other practitioners, as well as the provision of medical testing and analysis services. They also include certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.340 General Retail Sales Commercial Activities.

General Retail Sales Commercial Activities include the sales of items generally for personal or household use, but excludes activities more specifically described in other classifications. This activity does not include establishment where more than five percent (5%) of net retail floor area is devoted to food products. Examples of activities in this classification include, but are not limited to, the following:

- Book and magazine, music, and video stores;
- Pharmacy that sells prescription and non-prescription drugs along with miscellaneous retail items;
- Florists;
- News stand;
- New and used clothing and shoes stores;
- Department stores;

- Electronics and appliance stores;
- Furniture and home furnishing stores;
- Gift shops;
- Hardware and paint stores;
- Hobby supply stores;
- Auto parts stores, excluding service or installation;
- Jewelry stores;
- Luggage and leather goods stores;
- Office supply and stationary stores;
- Sporting goods stores.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.345 Large-Scale Combined Retail and Grocery Sales Commercial Activities.

Large-Scale Combined Retail and Grocery Sales Commercial Activities include the retail sale from the premises of goods and merchandise, primarily for personal or household use, from stores whose total sales floor area exceeds one hundred thousand (100,000) square feet, and which devote more than ten percent (10%) of sales floor area to the sale of non-taxable merchandise, but exclude wholesale clubs or other establishments selling primarily bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic access fee. This classification excludes the sale or rental of motor vehicles, except for parts and accessories, and the sale of materials used in construction of buildings or other structures, except for paint, fixtures, and hardware. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.350 Consumer Service Commercial Activities.

Consumer Service Commercial Activities include the provision of services of a personal nature, but exclude activities more specifically classified elsewhere. Examples of activities in this classification include, but are not limited to, the following:

- Barber shops;
- Beauty salons;
- Laundromats;
- Nail salons;
- Full service laundry service and dry cleaners (not including dry cleaning plants);

- Shoe shine stands;
- Tailors;
- Tanning salons;
- Tattoo parlors;
- A pharmacy that exclusively sells prescription drugs, non-prescription drugs, and other medical-related products;
- Massage services.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13042, § 4(Exh. A), 10-19-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.360 Consultative and Financial Service Commercial Activities.

Consultative and Financial Service Commercial Activities include the provision of financial, mortgage, insurance, retail bank branch, consumer oriented tax services, and real estate brokerage services, other than the services classified as Civic Activities or described in Sections 17.10.330 (Medical Service), 17.10.400 (Business, Communication, and Media Service), and 17.10.420 (Research Service Commercial Activities). This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.365 Check Cashier and Check Cashing Commercial Activities.

Check Cashier and Check Cashing Commercial Activities include:

A. A person or entity that, for compensation, engages in whole or in part in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. "Check Cashier Activities" also include the business of deferred deposits whereby the check cashier refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code Section 1789.33, as amended.

B. "Check Cashier" or "Check Cashing Activities" do not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check Cashier" or "Check Cashing Activities" also do not include a retail seller engaged primarily in the business of selling consumer goods, such as consumables, to retail buyers that cash checks or issues money orders for a minimum flat fee, not exceeding two (2) dollars, as a service to its customers that is incidental to its main purpose or business. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.370 Consumer Cleaning and Repair Service Commercial Activities.

Consumer Cleaning and Repair Service Commercial Activities include the cleaning or repair of household appliances, furniture, and similar items; but exclude establishments that include on-site dry cleaning or repair of motor vehicles and of structures. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.375 Consumer Dry Cleaning Plant Commercial Activities.

Dry Cleaning Plant Commercial Activities include the on-site dry cleaning of personal apparel and similar items with or without consumer drop-off and pick-up. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.380 Group Assembly Commercial Activities.

Group Assembly Commercial Activities include the provision of instructional, amusement, and other services of a similar nature to group assemblages of people. This classification does not include any activity classified in Section 17.10.160 Community Assembly Civic Activities, Section 17.10.170 Recreational Assembly Civic Activities, or Section 17.10.180 Community Education Civic Activities. Examples of activities in this classification include, but are not limited to, the following:

- Yoga, martial arts, driving school, job training, and other instructional classes in facilities with three thousand (3,000) square feet or more of classroom or instructional space;
- Drive-in theaters;
- Theaters or venues with three thousand (3,000) square feet or more of performance, lobby space, and audience floor area;
- Temporary carnivals, fairs, and circuses;
- Cabarets, night clubs, dance halls, adult entertainment, and pool halls;
- Banquet halls;
- Fitness clubs with three thousand (3,000) square feet or more of floor area.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.385 Personal Instruction and Improvement Services Commercial Activities.

Personal Instruction and Improvement Services Commercial Activities include the provision of informational, instructional, personal improvement and other services of a similar nature. This classification does not include any activity classified as Section 17.10.180 Community

Education Civic Activities or Section 17.10.380 Group Assembly Commercial Activities. Examples of activities in this classification include, but are not limited to, the following:

- Yoga, martial arts, driving school, job training, and other instructional classes in facilities with less than three thousand (3,000) square feet of classroom or instructional space;
- Fitness clubs with less than three thousand (3,000) square feet of floor area;
- Theaters or venues with less than three thousand (3,000) square feet of performance, lobby space, and audience floor area.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.390 Administrative Commercial Activities.

Administrative Commercial Activities include the professional, executive, management, administrative, and clerical activities of private firms, other than public utility firms. This classification includes, but is not limited to, administrative corporate headquarter offices, business offices, and the offices of investment firms. Examples of activities in this classification include, but are not limited to, the following:

- Cultural and advocacy offices;
- Law firms;
- Accounting;
- Advertising;
- Architectural and engineering consulting firms;
- Management consulting firms;
- Computer consulting;
- Software design;
- Data management and billing services offices;
- Administrative offices of non-profit organizations.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.400 Business, Communication, and Media Service Commercial Activities.

Business, Communication, and Media Service Commercial Activities include the provision of services of a clerical, goods brokerage, communication, or minor processing nature such as digital and print production, photocopying, audio and video editing, and mailing services. This

classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.410 Broadcasting and Recording Service Commercial Activities.

Broadcasting and Recording Service Commercial Activities include the recording or broadcasting of music or video performed in studios. This category does not include transmission towers. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.420 Research Service Commercial Activities.

Research Service Commercial Activities include research of an industrial or scientific nature, other than medical testing and analysis and routine product testing, which is offered as a service or which is conducted by and for a private profit-oriented firm, other than a public utility firm. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.430 General Wholesale Sales Commercial Activities.

General Wholesale Sales Commercial Activities include the storage and sale, from the premises, of bulk goods, as well as the storage of such goods on the premises and their transfer therefrom to other firms or individuals; but exclude sale or storage of motor vehicles, except for parts and accessories, and sale or storage of materials used in construction of buildings or other structures. This classification does not include hardware or paint stores. This classification also excludes activities under Section 17.10.345 (Large-Scale Combined Retail and Grocery Sales Commercial Activity). This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.440 Transient Habitation Commercial Activities.

Transient Habitation Commercial Activities include the provision of lodging services to transient guests on a less-than-weekly basis, other than in the case of activities classified by Section 17.10.120 Semi-Transient Residential Activities or Section 17.10.125 Bed and Breakfast Residential Activities. Examples include hotels and motels. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.450 Building Material Sales Commercial Activities.

Building Material Sales Commercial Activities include the sale of bulk building and landscaping supplies. This classification includes, but is not limited to, sales of heating, air

conditioning, electrical and plumbing equipment, soil, soil amendments, lumber, gravel, or other similar building materials. Landscaping and building materials are commonly stored outside. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.460 Automobile and Other Light Vehicle Sales and Rental Commercial Activities.

Automobile and Other Light Vehicle Sales and Rental Commercial Activities include the sale, rental, leasing and incidental cleaning, servicing, and repair of small passenger vehicles and light trucks that have a gross vehicle weight rating of less than fourteen thousand (14,000) pounds such as cars, sports utility vehicles, motorcycles, pickup trucks, vans, light tow trucks, light trucks, boats and RVs. This classification also includes the retail or wholesale sale or rental, from the premises, of any type of goods where orders are placed predominantly by telephone or mail order with delivery being provided by motor vehicle. Delivery activities that include use of more than two (2) on-site tow trucks are excluded from this classification This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.470 Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities.

Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities include the sale, from the premises, of goods and the provision of services which are generally required in the operation and maintenance of automotive vehicles that have a gross vehicle weight less than fourteen thousand (14,000) pounds and the fulfilling of motorist needs, including sale of petroleum products together with sale and servicing of tires, batteries, automotive accessories, and replacement items, lubricating services, and performance of minor repairs. This classification does not include vehicle dismantling or salvage and tire re-treading or recapping. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.480 Automobile and Other Light Vehicle Repair and Cleaning Commercial Activities.

Automobile and Other Light Vehicle Repair and Cleaning Commercial Activities include the major repair or painting of motor vehicles that have a gross vehicle weight rating of less than fourteen thousand (14,000) pounds, including body work and installation of major accessories, as well as the washing and polishing of motor vehicles. This classification does not include vehicle dismantling or salvage and tire re-treading or recapping. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.485 Taxi and Light Fleet-Based Service Commercial Activities.

Taxi and Light Fleet-Based Service Commercial Activities include passenger transportation services, local delivery services, and other businesses that rely on fleets of three (3) or more vehicles with a gross vehicle weight rating of less than fourteen thousand (14,000) pounds. This classification includes parking, dispatching, and offices for taxicab and limousine operations, airport shuttles, medical transport, local messenger and document delivery services, janitorial services, and similar businesses. This classification only includes towing operations when vehicles are taken to off-site locations and the tow trucks do not exceed the above gross vehicle weight rating. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.490 Automotive Fee Parking Commercial Activities.

Automotive Fee Parking Commercial Activities include the parking and storage of motor vehicles on a fee basis, other than the operation of parking facilities by a Civic Activity. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.500 Reserved.

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Section 17.10.500, which pertained to transport and warehousing commercial activities (does not apply to the CIX-1, CIX-2, IG, or IO Zones), and derived from Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009.

17.10.505 Animal Boarding Commercial Activities.

Animal Boarding Commercial Activities include any structure, land, or combination thereof used, designed, or arranged for the boarding, breeding or care of dogs, cats, pets, or other domestic animals for profit, but exclusive of animals used for agricultural purposes. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.510 Animal Care Commercial Activities.

Animal Care Commercial Activities include the provision of animal care and treatment wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

17.10.520 Undertaking Service Commercial Activities.

Undertaking Service Commercial Activities include the provision of undertaking and funeral services involving the care and preparation of the human dead prior to burial. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

FOOTNOTE(S):

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Editor's note— Ord. No. 12939, § 4(Exh. A), adopted June 16, 2006, amended Part 3 in its entirety to read as herein set out. Formerly, Part 3 pertained to similar subject matter, and derived from the prior planning code, §§ 2350, 2360—2375, 2378—2384, 2388, 2389; Ord. No. 12314, § 2, adopted 2001; Ord. No. 12547, § 3, adopted 2003; Ord. No. 12581, adopted 2004; Ord. No. 12626, § 3, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006. (Back)

Part 4 Industrial Activity Types [2]

17.10.540 General description of Industrial Activities.

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17.10.587 Hazardous Materials Production, Storage, and Waste Management Industrial Activities.

17.10.540 General description of Industrial Activities.

Industrial Activities include the on-site production of goods by methods other than agricultural and extractive in nature the provisions of warehousing and storage, freight handling, shipping, and trucking services; and the storage, transportation, and processing of recyclable or waste materials, and hazardous materials. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12875 § 2 (part), 2008: prior planning code § 2400)

17.10.550 Custom Manufacturing Industrial Activities.

Custom Manufacturing Industrial Activities include the small-scale production of artisan and/or custom products. This activity typically includes the production of finished parts or products by hand, involving the use of hand tools and small-scale equipment within enclosed buildings. Custom Manufacturing Industrial Activities do not produce noise, vibration, air pollution, fire hazard, or noxious emission that will disturb or endanger neighboring properties. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. This classification includes, but is not limited to, the production of:

A. Beverages (including alcoholic) and food (excluding the production of highly pungent, odor-causing items, such as vinegar and yeast) with ten thousand (10,000) square feet or less of floor area (See Section 17.10.040 for allowed sales activities accessory to the production of alcoholic beverages and Section 17.103.030 for definition of an alcoholic beverage manufacturer);

B. Cameras and photographic equipment;

C. Custom sign-making;

D. Custom clothing;

E. Custom furniture building and refinishing;

F. Professional, scientific, measuring, and controlling instruments;

G. Musical instruments;

H. Medical, dental, optical and orthopedic instruments and appliances, and similar items;

I. Handicraft, art objects, and jewelry.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12875 § 2 (part), 2008)

17.10.560 Light Manufacturing Industrial Activities.

Light Manufacturing Industrial Activities include the manufacturing, compounding, processing, assembling, packaging, or treatment of components or products, primarily from previously prepared materials, and typically within enclosed buildings. Light Manufacturing Industrial Activities do not produce noise, vibration, air pollution, fire hazard, or noxious emission that will disturb or endanger neighboring properties. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. This classification includes, but is not limited to, the production or assembly of:

A. Production apparel manufacturing;

B. Computer and electronic products;

C. Pharmaceutical production;

D. Beverages (including alcoholic) and food (excluding the production of highly pungent, odor-causing items, such as vinegar and yeast) with more than ten thousand (10,000) square feet of floor area (See Section 17.10.040 for allowed sales activities accessory to the production of alcoholic beverages and Section 17.103.030 for definition of an alcoholic beverage manufacturer);

E. Electrical equipment, appliances, and components;

F. Furniture and related products;

G. Pharmaceutical production;

H. Sporting and athletic goods.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12875 § 2 (part), 2008)

17.10.570 General Manufacturing Industrial Activities.

General Manufacturing Industrial Activities include the manufacturing, compounding, processing, assembling, packaging or treatment of products from extracted, raw, recycled or secondary materials; they may have some or all activities conducted outdoors. This classification excludes all activities under Intermediate Recycling Processing Facilities. The Zoning Administrator or his/her designee may place an activity that otherwise fits this description, but does not produce noise, vibration, air pollution, fire hazard, or noxious emission that will violate standard in Chapter 17.120, or another federal, State or local standards into the Light Manufacturing Industrial Activities classification. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. Examples of activities in this classification include, but are not limited to, the following:

A. Chemical manufacturing (except for the chemical products listed under Heavy/High/Impact Manufacturing);

B. Glass manufacturing;

C. Metal foundries;

D. Wood product manufacturing;

E. Heavy equipment and manufacturing;

F. Paper finishing;

G. Pipe production facilities;

H. Textile mills;

I. Tire retreading and recapping;

J. Wood product manufacturing.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12875 § 2 (part), 2008)

17.10.580 Heavy/High Impact Manufacturing Industrial Activities.

Heavy/High Impact Manufacturing Industrial Activities include high impact or hazardous manufacturing processes. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. Examples of activities in this classification include, but are not limited to, the following:

A. Any manufacturing use with large-scale facilities for outdoor oil and gas storage;

B. Any biotechnology research, development or production activities involving materials defined by the National Institute of Health as Risk Group 4 or Restricted Agents (commonly known as "biosafety level 4");

C. Battery manufacturing and storage;

D. Lime and gypsum products manufacturing;

E. Non-ferrous metals production, processing, smelting and refining;

F. Painting, coating and adhesive manufacturing;

G. Synthetic dye and pigment manufacturing;

H. Urethane and other open-cell foam product manufacturing;

I. Petroleum and coal products manufacturing and refining;

J. Primary metal smelting;

K. Vinegar, yeast and other pungent, odor-causing items production;

L. Leather tanning;

M. Cement and asphalt manufacturing;

N. Explosives manufacturing;

O. Fertilizer and other agricultural chemical manufacturing.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12875 § 2 (part), 2008)

17.10.581 Research and Development Industrial Activities.

Research and Development Industrial Activities include scientific research for the design, development, engineering, and testing of high technology electronic, industrial, or scientific products in advance of full-scale manufacturing of final products. The only manufacturing uses in this classification consist of the creation of prototype products, plans, or designs for the primary purpose of research, development, or evaluation, rather than sale. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

This classification excludes manufacturing uses, wholesale and storage uses, repair and retail sales, except as an accessory use as specified in Section 17.10.040; this classification also excludes the on-site production of products for sale, and biotechnology laboratories

approved for National Institute of Health experiments using Risk Group 4 or Restricted Agents (commonly known as "bio-safety level 4") (Section 17.10.580 Heavy/High Impact Manufacturing Activities).

This classification includes, but is not limited to, biotechnology firms, "clean-tech"/energy, environmental, electronic research firms, or pharmaceutical research laboratories.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12875 § 2 (part), 2008)

17.10.582 Construction Operations Industrial Activities.

Construction Operations Industrial Activities include enclosed and unenclosed facilities and accessory yards for construction and incidental storage activities and/or fabrication activities performed by construction contractors on lots other than construction sites. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. This classification includes, but is not limited to, the storage and custom cutting of stone for interior applications, roofing and plumbing component storage, and equipment storage for environmental contractors.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12875 § 2 (part), 2008)

17.10.583 Warehousing, Storage, and Distribution Industrial Activities.

Warehousing, Storage, and Distribution Industrial Activities include five (5) sub-classifications as described below. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040:

A. General Warehousing, Storage, and Distribution. General Warehousing, Storage, and Distribution Activities include the warehousing and storage, primarily within enclosed buildings, of commercial goods (other than primary storage of hazardous materials), and the associated distribution activities that occur on-site prior to delivery of goods to wholesale and retail outlets or direct shipment to customers. These activities may also include ancillary truck parking and dispatching; and accessory outdoor storage areas where outdoor storage, not including parking and loading areas, does not occupy more than thirty percent (30%) of the total site area.

B. General Outdoor Storage. General Outdoor Storage Activities include principal outdoor storage of items for more than 24 hours where such storage activities occupy more than thirty percent (30%) of the site area. The principal storage of goods and materials, equipment or vehicles; as well as the storage of operating equipment for warehouses, such as forklifts, pallets, and racks. This classification excludes outdoor storage uses that are more specifically described in this Chapter, including but not limited to, container storage, salvage and junk yards and oil and gas storage. This classification includes, but is not limited to, construction trailers, outdoor sheds or accessory portable structures, secondary sites for storage of building materials that are not for resale on-site.

C. Self- or Mini-Storage. Self- or Mini-Storage Activities consist of storage in small individual spaces, on average of four hundred (400) square feet or less that are exclusively and directly accessible to a specific tenant, offered on a monthly or other limited basis, and available to the general public.

D. Container Storage. Container Storage Activities include the storage, repair, and "pre-tripping" of shipping containers, including refrigerated shipping containers, on open

lots. Includes minor repair and cleaning of containers, and may include the rehabilitation of containers for other uses.

E. Automotive Salvage/Junk Yards. Automotive Salvage/Junk Yard Activities include the storage and dismantling of vehicles and equipment for sale of parts.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12875 § 2 (part), 2008)

17.10.584 Regional Freight Transportation Industrial Activities.

Regional Freight Transportation Activities include the provision of freight handling and shipping services by water and rail. They include the inter- and intra-regional transportation of goods. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

A. Seaport. The accommodation of freight service and operations by ship. This classification includes piers, wharves and docks, marine terminals, container and break-bulk storage areas (where container storage is an accessory, rather than principal activity), related inter-modal facilities, and support services such as port and harbor operations and navigational services.

B. Rail yard. Accommodation of freight service and operations by rail.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12875 § 2 (part), 2008)

17.10.585 Trucking and Truck-Related Industrial Activities.

Trucking and Truck-Related Industrial Activities include the provision of freight handling and shipping services by trucks as well as parking, maintenance, and services for trucks and other heavy vehicles and equipment. Each classification involves the use of trucks and other heavy vehicles that have a gross vehicle weight rating greater than or equal to fourteen thousand (14,000) pounds. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

A. Freight/Truck Terminal. The accommodation of local or worldwide freight by truck. This classification includes facilities used primarily for transfer, breaking-down, and/or consolidation of freight, as well as parking and dispatch of trucks.

B. Truck Yard. Parking, dispatch, refueling, and incidental repair of trucks, buses, or other fleets of heavy vehicles, where there is no on-site freight storage or transfer. This classification includes corporation yards operated by public and private towing operations. This classification does not include local courier and delivery services; towing operations as an accessory activity to Automotive and Other Light Vehicle Repair and Cleaning (see Section 17.10.480).

C. Truck Weigh Stations. The weighing of commercial trucks in truck weighing facilities.

D. Truck and Other Heavy Vehicle Sales, Rental, and Leasing. Sales, rental, and leasing of medium and heavy trucks, truck tractors, construction or agricultural equipment, buses, commercial boats, heavy equipment, and other commercial vehicles. This classification includes the sale, installation, accessory repair and servicing of related equipment and parts. This classification does not include vehicle dismantling or

salvage and tire re-treading or recapping (see Salvage/Junk Yards, Section 17.10.583).

E. Truck and Other Heavy Vehicle Service, Repair, and Refueling. Repair, fueling, and other servicing of medium and heavy trucks, truck tractors, construction or agricultural equipment, buses, boats, heavy equipment, and similar vehicles. This classification includes the sale, installation, and servicing of related equipment and parts. This classification includes fueling stations, repair shops, body and fender shops, wheel and brake shops, engine repair and rebuilding, welding, major painting service, tire sales and installation, and upholstery shops for trucks and other heavy vehicles. This classification does not include vehicle dismantling or salvage (see Salvage/Junk Yards, Subsection 17.10.583.E).

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12875 § 2 (part), 2008)

17.10.586 Recycling and Waste-Related Industrial Activities.

Recycling and Waste-Related Industrial Activities include recycling collection, intermediate processing, and other activities related to the storage and processing of used and waste materials. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

A. Satellite Recycling Collection Centers. An activity accepting recyclable non-hazardous materials directly from the public by donation, redemption, or purchase at facilities less than five hundred (500) square feet in area that generally do not use power-driven processing equipment.

Satellite collection centers may include mobile recycling units, bulk reverse vending machines, kiosk type units, and/or unattended containers placed for the donation of recyclable materials. These facilities are generally located in, or associated with supermarkets and shopping centers. Most, though not all, satellite collection centers are set up pursuant to requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986, which requires establishment of such centers in all "Convenience Zones" (CZ) in California, defined as the area within one-half (½) mile of all supermarkets, to collect beverage containers made from materials such as aluminum, glass, plastic, and bimetal for recycling.

B. Primary Recycling Collection Centers. An activity accepting recyclable non-hazardous materials by donation, redemption, or purchase at facilities occupying an area of more than five hundred (500) square feet that are not operated incidental to a host use and that may have a permanent building. Primary collection centers typically use power-driven equipment to sort and condense material for shipment to an intermediate processor or other user. Primary Recycling Collection Centers may have a combination of outdoor processing and storage.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. No. 12923, § 2(Exh. A), 3-17-2009; Ord. 12875 § 2 (part), 2008)

17.10.587 Hazardous Materials Production, Storage, and Waste Management Industrial Activities.

Hazardous Materials Production, Storage, and Waste Management Industrial Activities include four (4) sub-classifications as described below. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040:

A. Small Scale Transfer and Storage Hazardous Waste Management Activities. Small Scale Transfer and Storage Hazardous Waste Management Activities include treatment facilities with waste streams small enough to be exempt from manifest requirements as described in California Health and Safety Code, Division 20, Chapter 6.5, Article 6. Wastes from any given generator must not exceed a total volume of five (5) gallons or a total weight of fifty (50) pounds.

B. Industrial Transfer/Storage Hazardous Waste Management Activities. Industrial Transfer/Storage Hazardous Waste Management Activities include any treatment facility which is not a Small Scale Transfer and Storage Facility or Residual Repository.

C. Residuals Repositories Hazardous Waste Management Activities. Residuals Repositories Hazardous Waste Management Activities include treatment facilities for collection of residual wastes de-fined as residues from other treatment facilities after treatment, and other irreducible stabilized or detoxified hazardous wastes.

D. Oil and Gas Storage. Oil and Gas Storage Activities include tank farms and outdoor facilities for the bulk storage and handling of fuel and lubricating oils, gasoline and natural gas.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12875 § 2 (part), 2008)

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, changed the title of Part 4 from "Manufacturing activity types" to "Industrial activity types." (Back)

Part 5 Agricultural and Extractive Activity Types

17.10.590 General description of Agricultural and Extractive Activities.

17.10.600 Plant Nursery Agricultural Activities.

17.10.610 Limited Agricultural Activities.

17.10.615 Extensive Agricultural Activities.

17.10.620 Mining and Quarrying Extractive Activities.

17.10.590 General description of Agricultural and Extractive Activities.

Agricultural and Extractive Activities include the on-site production of plant and animal products by agricultural methods, and of mineral products by extractive methods. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 2450)

17.10.600 Plant Nursery Agricultural Activities.

Plant Nursery Agricultural Activities include the cultivation for sale of horticultural specialties such as flowers, shrubs, and trees, intended for ornamental or landscaping purposes. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 2460)

17.10.610 Limited Agricultural Activities.

Limited Agricultural Activities include the cultivation on the premises of fruits, vegetables, plants, flowers, herbs, and/or ornamental plants intended to produce food, fibers, or other plant products for on- or off-site sale. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. This classification does not include the keeping, grazing, or feeding of animals, except for bee keeping involving no more than three (3) hives; the use of any heavy mechanized farming equipment; or any activity classified in Section 17.10.600 Plant Nursery Agricultural Activities.

17.10.615 Extensive Agricultural Activities.

Extensive Agricultural Activities include the keeping, grazing, or feeding of animals by agricultural methods, including bee keeping activities involving more than three (3) hives, intended to provide animals or animal products for on- or off-site sale; and agricultural activities not included in Section 17.10.610 Limited Agricultural Activities, including but not limited to, the use of any heavy mechanized farming equipment. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. This classification does not include any activity classified in Section 17.10.505 Animal Boarding Commercial Activities or Section 17.10.510 Animal Care Commercial Activities.

17.10.620 Mining and Quarrying Extractive Activities.

Mining and Quarrying Extractive Activities include the extraction of metallic and nonmetallic minerals, including sand and gravel pit operations. They include surface mining operations as defined by Section 2735 of the Public Resources Code of the state of California. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 2462)

Article III Facility Types

Part 1 Residential Facility Types

17.10.630 General description of Residential Facilities.

17.10.640 One-Family Dwelling Residential Facilities.

17.10.650 One-Family Dwelling with Secondary Unit Residential Facilities.

17.10.670 Two-Family Dwelling Residential Facilities.

17.10.680 Multifamily Dwelling Residential Facilities.

17.10.690 Rooming House Residential Facilities.

17.10.700 Mobile Home Residential Facilities.

17.10.630 General description of Residential Facilities.

Residential Facilities include living quarters which accommodate or are intended to accommodate Residential Activities. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

(Prior planning code § 2550)

17.10.640 One-Family Dwelling Residential Facilities.

One-Family Dwelling Residential Facilities include permanently fixed buildings, or those portions thereof, which accommodate or are intended to accommodate Residential Activities and each of which contains one dwelling unit. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

(Prior planning code § 2560)

17.10.650 One-Family Dwelling with Secondary Unit Residential Facilities.

One-Family Dwelling with Secondary Unit Residential Facilities include permanently fixed buildings, or those portions thereof, which accommodate or are intended to accommodate Residential Activities, which contains one primary dwelling unit and one Secondary Unit. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

(Ord. 12199 § 3 (part), 2000: prior planning code § 2560.1)

17.10.670 Two-Family Dwelling Residential Facilities.

Two-Family Dwelling Residential Facilities include permanently fixed buildings, or those portions thereof, which accommodate or are intended to accommodate Residential Activities and each of which contains two (2) dwelling units; but exclude the facilities described in Section

17.10.650. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Prior planning code § 2561)

17.10.680 Multifamily Dwelling Residential Facilities.

Multifamily Dwelling Residential Facilities include permanently fixed buildings, or those portions thereof, which accommodate or are intended to accommodate Residential Activities and each of which contains three (3) or more dwelling units. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Prior planning code § 2562)

17.10.690 Rooming House Residential Facilities.

Rooming House Residential Facilities include permanently fixed buildings, or those portions thereof, which accommodate or are intended to accommodate Residential Activities and each of which contains one or more rooming units. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

(Prior planning code § 2566)

17.10.700 Mobile Home Residential Facilities.

Mobile Home Residential Facilities include vehicular facilities which accommodate or are intended to accommodate Residential Activities and each of which contains a living unit. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

(Ord. 12872 § 4 (part), 2008: prior planning code § 2567)

Part 2 Nonresidential Facility Types

17.10.710 General description of Nonresidential Facilities.

17.10.720 Enclosed Nonresidential Facilities.

17.10.730 Open Nonresidential Facilities.

17.10.740 Drive-In Nonresidential Facilities.

17.10.750 Sidewalk Cafe Nonresidential Facilities.

17.10.760 Reserved.

17.10.770 Drive-Through Nonresidential Facilities.

17.10.710 General description of Nonresidential Facilities.

Nonresidential Facilities include principal facilities, or portions thereof, which accommodate or are intended to accommodate Civic, Commercial, Industrial, or Agricultural or Extractive

Activities. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 2600)

17.10.720 Enclosed Nonresidential Facilities.

Enclosed Nonresidential Facilities include principal buildings, or portions thereof, other than those described in Section 17.10.740, which accommodate or are intended to accommodate Civic, Commercial, Industrial, or Agricultural or Extractive Activities and which are separated from adjacent areas on all sides by walls pierced only by windows, vents, or customary entrances and exits. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 2610)

17.10.730 Open Nonresidential Facilities.

Open Nonresidential Facilities include principal facilities, other than those facilities described in Sections 17.10.740 (Drive-In Nonresidential), 17.10.750 (Sidewalk Cafe) and 17.10.770 (Drive-Through Nonresidential), which accommodate or are intended to accommodate Civic, Commercial, Industrial, or Agricultural or Extractive Activities and which either are unroofed areas or structures, or are buildings which are not separated from adjacent areas on all sides by walls pierced only by windows, vents, or customary entrances and exits. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

(Ord. 12899 § 4, Exh. A (part), 2008; prior planning code § 2611)

17.10.740 Drive-In Nonresidential Facilities.

Drive-In Nonresidential Facilities include principal buildings, open areas, and other facilities which accommodate or are intended to accommodate Civic, Commercial, Industrial, or Agricultural or Extractive Activities and which are so designed or operated as to enable persons to receive a service or purchase or consume goods while remaining within a motor vehicle. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 2612)

17.10.750 Sidewalk Cafe Nonresidential Facilities.

Sidewalk Cafe Nonresidential Facilities include dining areas which encroach within the sidewalk or plaza area of the public right-of-way and are intended to accommodate either a General Food Sales Commercial, Full Service Restaurant, Limited Service Restaurant and Cafe, Fast-Food Restaurant, or Alcoholic Beverage Sales Commercial Activity located on private property. Such dining areas shall be defined by design elements which separate the establishment from the remainder of the sidewalk or plaza.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 2613)

17.10.760 Reserved.

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Section 17.10.760, which pertained to shopping center facility, and derived from the prior planning code, § 2614.

17.10.770 Drive-Through Nonresidential Facilities.

Drive-Through Nonresidential Facilities include vehicular access systems designed to enable persons to receive a service or purchase goods by driving through the property and conducting the transaction while remaining within the vehicle. The systems generally consist of vehicular stacking/queuing lane(s) and one or more service locations/windows. Drive-Through Nonresidential Facilities are intended to accommodate Civic, Commercial, Industrial, or Agriculture or Extractive Activities. They also include certain other facilities accessory to the above as specified in Section 17.10.070.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 2615)

Part 3 Sign Types

17.10.780 General description of Signs.

17.10.790 Residential Signs.

17.10.800 Special Signs.

17.10.810 Development Signs.

17.10.820 Realty Signs.

17.10.830 Civic Signs.

17.10.840 Business Signs.

17.10.850 Advertising Signs.

17.10.780 General description of Signs.

Signs are any facilities, whether located inside or outside a building, which are visible from any lot line, and the primary purpose of which is the conveyance of an idea, advertising, endorsement, identification, or information, by means of visual symbols, lettering, illustration, or any other means of directing attention or communicating; and include display surfaces together with such facilities as are utilized in supporting, maintaining, and illuminating the display surfaces.

(Prior planning code § 2650)

17.10.790 Residential Signs.

Residential Signs are Signs which give notice of the name or address of Residential Facilities on the same lot or the name or occupation of a resident thereof, or the condition of use of a parking area or other private facility serving a Residential Activity.

(Prior planning code § 2660)

17.10.800 Special Signs.

Special Signs are Signs which serve a temporary or other special function of an emergency, patriotic, religious, or community nature, including official notices and warning Signs posted by a governmental agency; the flag of any nation, state, international organization, or other governmental agency; memorial plaques, historical tablets, and other commemorative symbols; temporary displays of a patriotic or religious nature; temporary nonstructural posters for civic or political campaigns; and nonilluminated, nonverbal religious symbols.

(Prior planning code § 2661)

17.10.810 Development Signs.

Development Signs are temporary Signs which announce the anticipated sale, lease, rental, or character of facilities being constructed or altered, or of facilities or lots in a real estate development or subdivision, or which identify persons or firms engaged in the promotion, design, construction, or alteration thereof.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 2662)

17.10.820 Realty Signs.

Realty Signs are temporary Signs which pertain to the sale, lease, rental, or display of existing lots or buildings or other facilities.

(Prior planning code § 2663)

17.10.830 Civic Signs.

Civic Signs are Signs, other than Special Signs, which give notice of the name or services, or other function or operation, of a Civic Activity on the same lot, or the address or conditions of use of a parking area or other facility serving such activity.

(Prior planning code § 2664)

17.10.840 Business Signs.

Business Signs are any of the following:

A. A Sign directing attention to, or otherwise pertaining to, a commodity, service, business, or profession which is sold, produced, conducted, or offered as one of the major functions of a Commercial, Industrial, or Agricultural or Extractive Activity on the same lot;

B. A Sign, or portion thereof, directing attention to or otherwise pertaining to a commodity or service which is sold, produced, or offered by a Commercial, Industrial, or Agricultural or Extractive Activity on the same lot but which does not constitute a major function thereof, whenever:

1. Such Sign is located behind a display window, or
2. Such Sign has a display surface not greater than twelve (12) square feet on any one face, or
3. Such advertising is incidental to a Sign pertaining to a major function and does not occupy more than one-half of the area of display surface thereof;

C. A Sign giving notice of the address or conditions of use of a parking area or other facility serving a Commercial, Industrial, or Agricultural or Extractive Activity.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 2667)

17.10.850 Advertising Signs.

Advertising Signs are any of the following:

A. A Sign directing attention to, or otherwise pertaining to, a commodity, service, business, or profession which is not sold, produced, conducted, or offered by any activity on the same lot;

B. A Sign directing attention to, or otherwise pertaining to, a commodity or service which is sold, produced, conducted, or offered by a Commercial, Industrial, or Agricultural or Extractive Activity on the same lot but which does not constitute a major function thereof, whenever such Sign is not classified as a Business Sign under Section 17.10.840B.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 2668)

Part 4 Telecommunications Facility Types

17.10.860 General description of Telecommunications Facilities.

17.10.870 Micro Telecommunications Facilities.

17.10.880 Mini Telecommunications Facilities.

17.10.890 Macro Telecommunications Facilities.

17.10.900 Monopole Telecommunications Facilities.

17.10.910 Tower Telecommunications Facilities.

17.10.860 General description of Telecommunications Facilities.

Telecommunications Facilities include attachment of antennas to buildings and similar facilities, the construction of support structures, and the provision of equipment associated with transmitting and receiving of radio frequencies.

(Ord. 11904 § 5.06 (part), 1996: prior planning code § 2700)

17.10.870 Micro Telecommunications Facilities.

A Micro Telecommunications Facility is an attached wireless communication facility consisting of no more than three (3) antennas whose height is no more than four (4) feet and whose width is no more than one (1) foot and the antennas are concealed from view. If the antennas are visible, they may be no more than two (2) feet tall and the width and depth of the antennas may be no more than four (4) inches. The associated equipment cabinets are not to exceed four (4) feet high by three (3) feet wide by two (2) feet deep if they are visible. If the equipment cabinets are concealed in an existing building, there is no limit on size of equipment.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12768 § 3 (part), 2006; Ord. 11904 § 5.06 (part), 1996: prior planning code § 2710)

17.10.880 Mini Telecommunications Facilities.

A Mini Telecommunications Facility is an attached wireless communication facility consisting of no more than twelve (12) antennas projecting no more than fifteen (15) feet above the roof line. The associated equipment cabinets are either concealed in an existing building, or no more than six (6) feet in height and occupy an area of no more than thirty (30) square feet. Construction of a separate structure to enclose the equipment serving the antennas is not allowed under the Mini Telecommunications Facility definition.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12768 § 3 (part), 2006; Ord. 11904 § 5.06 (part), 1996: prior planning code § 2711)

17.10.890 Macro Telecommunications Facilities.

A Macro Telecommunications Facility is a wireless communication facility not included in the definition of Micro Telecommunications, Mini Telecommunications, Monopole Telecommunications, or Tower Telecommunications Facilities.

(Ord. 11904 § 5.06 (part), 1996: prior planning code § 2712)

17.10.900 Monopole Telecommunications Facilities.

A Monopole Telecommunications Facility is a wireless communication facility that supports wireless communications antennas with a monopolar structure erected on the ground, terminating in one or more connecting appurtenances.

(Ord. 11904 § 5.06 (part), 1996: prior planning code § 2713)

17.10.910 Tower Telecommunications Facilities.

A Tower Telecommunications Facility is a self-supporting structure, erected on the ground, which consists of metal crossed strips or bars to support antennas and related equipment.

(Ord. 11904 § 5.06 (part), 1996: prior planning code § 2714)

Chapter 17.11 OS OPEN SPACE ZONING REGULATIONS

Sections:

17.11.010 Title, purpose, and applicability.

17.11.020 Designation and mapping of parks by category.

17.11.030 Activities and facilities deemed approved or legal nonconforming.

17.11.040 Permitted activities.

17.11.050 Conditionally permitted activities.

17.11.060 Special provisions for permitted and conditionally permitted activities in the OS Zone.

17.11.070 Permitted facilities.

17.11.080 Conditionally permitted facilities.

17.11.090 Special provisions for permitted and conditionally permitted facilities, and facilities allowed by variance in the OS Zone.

17.11.100 Amendment of Sections 17.11.060 and 17.11.090.

17.11.110 Use permit criteria.

17.11.120 Limitation on signs.

17.11.130 Maximum height.

17.11.140 Minimum yards.

17.11.150 Maximum impervious surface.

17.11.160 Buffering.

17.11.170 Other zoning provisions.

17.11.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the OS Open Space Zone Regulations. The OS Zone is intended to create, preserve, and enhance land for permanent open space to meet the active and passive recreational needs of Oakland residents and to promote park uses which are compatible with surrounding land uses and the city's natural environment. The zone is typically appropriate in areas of public open space only. The following regulations shall apply in the OS Zone.

(Ord. 12078 § 3 (part), 1998)

17.11.020 Designation and mapping of parks by category.

A. All parks and public open space lands in the City of Oakland shall be classified using the categories listed below:

RCA	Resource Conservation Area
RSP	Region-Serving Park
CP	Community Park
NP	Neighborhood Park
AMP	Active Mini-Park
PMP	Passive Mini-Park
LP	Linear Park
SU	Special Use Park
AF	Athletic Field Park

B. Designation of each park on the zoning maps shall be followed by the two- or three-letter abbreviation corresponding to each park type in parentheses.

C. If a new park is developed or acquired or if an existing park is to be changed to a new category, the Parks and Recreation Advisory Commission (PRAC) shall make a recommendation on the designation to the City Council, consistent with the park type definitions contained in the Open Space Conservation and Recreation (OSCAR) Element of the Oakland General Plan. The City Council shall hold a noticed public hearing prior to making a decision on the recommendation.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12078 § 3 (part), 1998)

17.11.030 Activities and facilities deemed approved or legal nonconforming.

All activities and facilities that are existing or have been legally approved on the effective date of the ordinance codified in this Chapter shall be deemed approved, provided that they appear in the list of conditionally permitted uses in Sections 17.11.050, 17.11.060 and 17.11.090. These activities and facilities shall not be subject to the provisions of Chapter 17.114 on nonconforming uses. Those existing activities and facilities that are not listed as conditionally permitted uses in Sections 17.11.050, 17.11.060 and 17.11.090 shall be deemed legal nonconforming uses and shall be subject to the provisions of Chapter 17.114.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12078 § 3 (part), 1998)

17.11.040 Permitted activities.

The following activities, as described in the use classifications at Chapter 17.10 and as further restricted to certain park and open space categories and specific uses as set forth in Section 17.11.060 are permitted:

A. Accessory Activities

(Ord. 12078 § 3 (part), 1998)

17.11.050 Conditionally permitted activities.

The following activities, as described in the use classifications at Chapter 17.10, and as further restricted to certain park and open space categories and specific uses as set forth in 17.11.060, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure at Chapter 17.134 and the special use permit procedure for the OS Zone at Chapter 17.135, subject to the special definitions for projects in the Open Space Zone at Section 17.09.050 and the use permit criteria at Section 17.11.110:

A. Residential Activities:

Permanent

B. Civic Activities:

Essential Service

Limited Child Care

Community Assembly

Recreational Assembly

Community Education

Nonassembly Cultural

Administrative

Extensive Impact

C. Commercial Activities:

Animal Care

Animal Boarding

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Alcoholic Beverage Sales (in restaurants only)

D. Agricultural and Extractive Activities:

Plant Nursery

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12078 § 3 (part), 1998)

17.11.060 Special provisions for permitted and conditionally permitted activities in the OS Zone.

The following table shall apply to those activities that are permitted and conditionally permitted within the OS Zone. The specified activities shall only be permitted or conditionally permitted in the types of parks indicated in the table. Permitted activities are noted with the letter "P." Uses requiring a minor conditional use permit are indicated with a star. Uses requiring a major conditional use permit are indicated with a solid circle and star [solid diamond]. In the event that no letter or symbol appears in the matrix cell, the use is not permitted.

USE/PARK TYPE	RSP	CP	NP	AMP	PMP	LP	SU	RCA	AF
Legend: ♦ = *Major Conditional Use Permit Required* * = *Minor Conditional Use Permit Required* P = *Permitted* No symbol=Not Permitted *RSP (Region-Seeing Park); CP (Community Park); NP (Neighborhood Park); Active Mini-Park (AMP); Passive Mini-Park (PMP); Linear Park (LP); Special Use Park (SU); Resource Conservation Area (RCA); Athletic Field Park (AF)*									
PERMANENT RESIDENTIAL ACTIVITIES									
ACTIVITY TYPES									
Caretaker's Quarters	♦	♦	♦			♦	♦		♦
ESSENTIAL SERVICE CIVIC ACTIVITIES									
Botanical Gardens	*	*	*	*	*	*	*		*
Community Gardens	*	*	*	*	*	*	*	*	*
Trails and Paths	*	*	*	*	*	*	*	*	*
Electric, gas, and telephone distribution lines and poles	*	*	*	*	*	*	*	*	*
Water, storm drainage, and sewer lines	*	*	*	*	*	*	*	*	*
Park, recreational, and civic uses, consistent with a Master Plan adopted by the City Council (pursuant to Section 17.135.050), whether or not they are listed in this table.	*	*	*	*	*	*	*	*	*
Park, recreational, and civic uses on land owned by the East Bay Regional Park District (EBRPD), consistent with a Master Plan adopted by the EBRPD Board (pursuant to Section 17.135.050), whether or not they are listed in this table.	P					P	P	P	

LIMITED CHILD CARE ACTIVITIES									
Child Care Centers for 12 or fewer children	♦	♦	♦				♦		
COMMUNITY ASSEMBLY CIVIC ACTIVITIES									
Athletic Fields	*	*	*				*		*
Basketball Courts	*	*	*	*		*	*		*
Boathouses	♦					♦	♦		
Bocce Ball	*	*	*				*		
Carousels and Similar Amusement Rides	♦						♦		
Clubhouse, lodge, meeting hall	♦	♦	♦				♦		
Dog Play Area (fenced)	*	*	*			*	*		
Fishing Ponds	*	*	*				*		
Food Service and Other Concessions	*	*	*				*		*
Gymnasium	♦	♦	♦				♦		
Handball Courts	♦	♦	♦				♦		
Horseback Riding	♦						♦	♦	
Horseshoe Pit	*	*	*	*			*		
Lawn Bowling	*	*	*				*		
Miniature Golf	♦	♦					♦		
Picnic Areas	*	*	*	*	*	*	*	♦	*
Playgrounds/Tot Lots/Children's Play Equipment (more than 1,000 square feet)	*	*	*	♦		*	*		*
Playgrounds/Tot Lots/Children's Play Equipment (less than 1,000 square feet)	*	*	*	*	*	*	*	*	*
Recreation Center	♦	♦	♦				♦		
Skateboard Play Area	*	*	*				*		*
Swim Centers (pools)	♦	♦	♦				♦		
Temporary Uses (i.e., fairs and carnivals)	*	*	*	*	*	*	*		*
Tennis Courts	*	*	*				*		*
Wading Pools	*	*	*	*			*		
Water Play Feature (water park)	♦	♦					♦		
COMMUNITY EDUCATION CIVIC ACTIVITIES									
Child Care Centers (for 13 or more children)	♦	♦	♦				♦		
NON-ASSEMBLY CULTURAL CIVIC ACTIVITIES									

Conservatory	♦	♦					♦		
Historic Residence Converted for Museum/Recreational Purposes	♦	♦	♦				♦		
Museum	♦	♦					♦		
Planetarium/Observatory	♦						♦		
ADMINISTRATIVE CIVIC ACTIVITIES									
Park Offices	♦	♦	♦				♦		♦
EXTENSIVE IMPACT CIVIC ACTIVITIES									
Auditoriums	♦	♦					♦		
Bandstand	♦	♦					♦		
Campsites (improved)	♦						♦		
Campsites (unimproved)	♦						♦	♦	
Docks/Wharves/Piers	♦					♦	♦	♦	
Driving Range	♦						♦		
Electric Transmission Lines	♦						♦	♦	
Equestrian Arena	♦						♦		
Golf Course							♦		
Outdoor Performance Area/Stage/Amphitheater	♦	♦	♦				♦		
Stadium or Sports Arena	♦						♦		
Stormwater Detention/Water Quality Facilities	♦	♦				♦	♦		
Reservoirs and Water Supply Tanks	♦	♦	♦			♦	♦	♦	♦
Wildlife Preserve	♦	♦					♦	♦	
Zoological Gardens (Zoos)	♦						♦		
ANIMAL CARE COMMERCIAL ACTIVITIES									
Horse Stables	♦						♦		
GENERAL FOOD SALES COMMERCIAL ACTIVITIES									
Full-service restaurant, within a publicly-owned building	♦						♦		
ALCOHOLIC BEVERAGE SALES									
Only in General Food Sales Commercial Activities that do not qualify as Full-Service Restaurants	♦						♦		
AGRICULTURAL ACTIVITIES									
Nurseries (Botanical)	♦						*		
Limited Agriculture									

	Extensive Agriculture								
ACCESSORY ACTIVITIES									
	Accessory Buildings	*	*	*	*		*	*		*
	Benches and street furniture, the sum of which is more than 100 square feet	*	*	*	*	*	*	*	*	*
	Benches and street furniture, the sum of which is less than 100 square feet	P	P	P	P	P	P	P	*	P
	Fences, walls, or gates	*	*	*	*	*	*	*	*	*
	Irrigation Systems	P	P	P	P	P	P	P	*	P
	Kiosks/Map Boards	*	*	*	*	*	*	*	*	*
	Landscaping, including hedges	P	P	P	P	P	P	P	*	P
	Lighting (Athletic Field)	♦	♦					♦		♦
	Lighting (General)	*	*	*	*	*	*	*		*
	Maintenance Sheds	*	*	*			*	*	♦	*
	Parking for use within park	*	*	*			*	*	*	*
	Public Art	*	*	*	*	*	*	*	♦	*
	Pullouts and Scenic Overlooks	P	P				P	P	P	
	Rest Room Building	*	*	*			*	*	♦	*

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12078 § 3 (part), 1998)

17.11.070 Permitted facilities.

The following facilities, as described in the use classifications at Chapter 17.10, and as further restricted to certain park and open space categories and specific uses as set forth in the following table, are permitted:

A. Accessory Facilities

(Ord. 12078 § 3 (part), 1998)

17.11.080 Conditionally permitted facilities.

The following facilities, as described in the use classifications at Chapter 17.10, and as further restricted to certain park and open space categories and specific uses as set forth in Section 17.11.090, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure at Chapter 17.134 and the special use permit procedure

for the OS Zone at Chapter 17.135, subject to the special definitions for projects in the Open Space Zone at Section 17.09.050 and the use permit criteria at Section 17.11.110:

A. Residential Facilities:

One-Family Dwelling

B. Nonresidential Facilities:

Enclosed

Open

C. Telecommunications Facilities:

Mini Telecommunications

Micro Telecommunications

Macro Telecommunications

Monopole Telecommunications

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12350 § 3 (part), 2001: Ord. 12078 § 3 (part), 1998)

17.11.090 Special provisions for permitted and conditionally permitted facilities, and facilities allowed by variance in the OS Zone.

A. Business and Advertising Signs. Business and Advertising Signs are allowed only when a City agency enters into an agreement with a private enterprise to enhance public park facilities and/or programs, and the private enterprise is a principal provider of cash and/or in-kind contribution toward the enhancements. Such Signs will refer either to the name of the donor company and/or products for sale on site. The size and content of such Signs is further limited to the following:

1. No signage may advertise alcohol, tobacco, drugs, pharmaceuticals or firearms.
2. Signage may only advertise products sold on-site or show the name of a private enterprise acting as a principal provider as a part of an agreement with a City agency.
3. Signs shall generally be consistent with the limitations established for Business and Advertising Signs in Chapter 17.104, but some departure from these requirements may be considered on a case-by-case basis.

B. The following table shall apply to certain classes of facilities that are permitted and conditionally permitted within the OS Zone. The specified facilities shall only be permitted or conditionally permitted in the types of parks indicated in the table. Permitted activities are noted with the letter "P." Uses requiring a minor conditional use permit are indicated with a star. Uses requiring a major conditional use permit are indicated with a solid circle and star [solid diamond]. In the event that no letter or symbol appears in the matrix cell, the use is not permitted.

USE/PARK TYPE	RSP	CP	NP	AMP	PMP	LP	SU	RCA	AF

Legend: *♦ = Requires Major Conditional Use Permit* ** = Requires Minor Conditional Use Permit* *RSP (Region-Seeing Park); CP (Community Park); NP (Neighborhood Park); Active Mini-Park (AMP); Passive Mini-Park (PMP); Linear Park (LP); Special Use Park (SU); Resource Conservation Area (RCA); Athletic Field Park (AF)*									
FACILITY TYPES									
ONE-FAMILY RESIDENCE									
Caretaker's Quarters	*	*	*			*	*		*
TELECOMMUNICATIONS FACILITIES									
Mini Telecommunications	♦	♦	♦	♦	♦	♦	♦	♦	♦
Micro Telecommunications	♦	♦	♦	♦	♦	♦	♦	♦	♦
Macro Telecommunications	*	*	*	*	*	*	*	*	*
Monopole Telecommunications	*	*	*	*	*	*	*	*	*
Tower Telecommunications									
SIGNS									
Residential	♦	♦	♦	♦	♦	♦	♦	♦	♦
Special	♦	♦	♦	♦	♦	♦	♦	♦	♦
Civic	♦	♦	♦	♦	♦	♦	♦	♦	♦
Business*	♦	♦	♦	♦	♦	♦	♦		♦
Advertising*	♦	♦	♦	♦	♦	♦	♦		♦

* Limited to the circumstances outlined in 17.11.090A.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12350 § 3 (part), 2001: Ord. 12078 § 3 (part), 1998)

17.11.100 Amendment of Sections 17.11.060 and 17.11.090.

Pursuant to Section 17.10.090, any activity or facility which is not expressly classified in Sections 17.11.060 and 17.11.090 shall be included in that category which most closely portrays it. In the event a use cannot be classified into an existing category, Sections 17.11.060 and 17.11.090 may be modified to establish a classification for said use, subject to the right of appeal from such determination pursuant to the administrative appeal procedure at Chapter

17.132. Any other changes to the text of the OS Zone shall be subject to the rezoning and law change procedure at Chapter 17.144.

(Ord. 12078 § 3 (part), 1998)

17.11.110 Use permit criteria.

A conditional use permit for any use under Sections 17.11.060 or 17.11.090 may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure at Chapter 17.134 and the no net loss provisions of Section 17.135.060.

(Ord. 12078 § 3 (part), 1998)

17.11.120 Limitation on signs.

All signs shall be subject to the applicable limitations set forth in Chapter 17.104.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12078 § 3 (part), 1998)

17.11.130 Maximum height.

A. **General.** Except as otherwise provided in Sections 17.108.020 and 17.108.030, the maximum height of buildings and other facilities shall be thirty-five (35) feet in parks classified as RCA, NP, AMP, PMP, or LP, and forty-five (45) feet in parks classified as RSP, CP, or AF. No general maximum height limit is prescribed for Special Use Parks.

B. **Height Restrictions Along More Restrictive Zone Boundary.** Where the OS Zone abuts a zone with a more restrictive height limit, the maximum height of buildings and other facilities shall not exceed the maximum height of the abutting zone unless each portion above that height is set back from the minimum yard required by Section 17.11.140 a minimum horizontal distance equal to two (2) feet for each one (1) foot by which it extends above such maximum height. This requirement shall apply at the property line in the event that no minimum yard is required in the abutting district.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12078 § 3 (part), 1998)

17.11.140 Minimum yards.

A. **All Park Categories Except Special Use Parks.** The minimum front, side, and rear yards shall be equal to the minimum yards required in the nearest adjacent zoning district. For parks abutting multiple zones, different minimum yard requirements may apply to different parts of the park.

B. **Special Use Parks.** No specific yard requirements shall apply in Special Use Parks. Appropriate yards in Special Use Parks are to be determined by the Director of City Planning through the conditional use permit procedure required by Sections 17.11.060 and 17.11.090 for the specific development projects proposed in these parks.

(Ord. 12078 § 3 (part), 1998)

_____

17.11.150 Maximum impervious surface.

The following table sets forth the maximum permitted impervious surface standards, as defined in Section 17.09.050. Exceedances of the Impervious Surface limits shall require a Minor Variance, as specified in Section 17.148.020(B).

Park Acreage	Maximum % Impervious Surface
Plazas and Active Mini-Parks	No limit
Passive Mini-Parks	10%
Resource Conservation Areas	One percent (1%) of total park area or two thousand five hundred (2,500) square feet, whichever is smaller, excluding parking areas which meet requirements in Section 17.116.260 for "durable, dustless, all-weather surface parking"
All other park classes	
Less than 1.0 acre	35%
1.0—5.0 acres	25%
5.0—10.0 acres	15%
Greater than 10.0 acres	10%

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12078 § 3 (part), 1998)

17.11.160 Buffering.

All uses shall be subject to the applicable requirements of the buffering regulations at Chapter 17.110 with respect to screening or location of parking, loading, and storage areas; control of artificial illumination; and other matters specified therein.

(Ord. 12078 § 3 (part), 1998)

17.11.170 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 at Chapter 17.116, except that reduced parking requirements may be allowed by the Director of City Planning through the conditional use permit procedure required by Sections 17.11.050, 17.11.060 and 17.11.090 for activities and facilities in either of the following instances:

1. The project's primary service area is one-quarter mile or less; or,
2. A portion of the project's parking demand is to be met through reciprocal agreements for shared parking on the same site or an adjacent site or sites.

In both cases, the extent of the reduction shall be determined by the Director of City Planning pursuant to Section 17.116.040.

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

C. **Nonconforming Uses.** Nonconforming uses and changes therein shall be subject to the nonconforming use regulations at Chapter 17.114.

D. **General Provisions.** Unless otherwise indicated, the general exceptions and other regulations set forth in Chapter 17.102 shall apply in the OS Zone.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12884 § 2 (part), 2008; Ord. 12078 § 3 (part), 1998)

Chapter 17.11A RESERVED [3]

FOOTNOTE(S):

--- (**3**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.11A, §§ 17.11A.010—17.11A.170 in its entirety, which pertained to R-1 one acre estate residential zone regulations and derived from Ord. No. 12272, § 3, adopted 2000; Ord. No. 12376, § 3, adopted 2001; Ord. No. 12501, §§ 6—8, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.12 RESERVED [4]

FOOTNOTE(S):

--- (**4**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.12, §§ 17.12.010—17.12.170 in its entirety, which pertained to R-10 estate residential zone regulations and derived from the prior planning code, §§ 3250, 3252—3256, 3263—3265, 3269, 3270, 3272—3274; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.06, 5.07, 5.09, 5.12, adopted 1996; Ord. No. 12116, § 2, adopted 1999; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12199, §§ 4A, 5A, adopted 2000; Ord. No. 12376, § 3, adopted 2001; Ord. No. 12501, §§ 10—12, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.13 RH HILLSIDE RESIDENTIAL ZONES REGULATIONS

Sections:

17.13.010 Title, intent, and description.

17.13.020 Required design review process.

17.13.030 Permitted and conditionally permitted activities.

17.13.040 Permitted and conditionally permitted facilities.

17.13.050 Property development standards.

17.13.060 Special regulations for Planned Unit Developments.

17.13.070 Other zoning provisions.

17.13.010 Title, intent, and description.

A. Title and Intent. The provisions of this Chapter shall be known as the RH Hillside Residential Regulations. The intent of the Hillside Residential (RH) Zones is to create, maintain, and enhance residential areas that are primarily characterized by detached, single unit structures on hillside lots.

B. Description of Zones. This Chapter establishes land use regulations for the following four (4) zones:

1. **RH-1 Hillside Residential - 1 Zone.** The intent of the RH-1 Zone is to create, maintain, and enhance areas for single-family living on lots of one acre or more, and is appropriate in portions of the Oakland Hills.

2. **RH-2 Hillside Residential - 2 Zone.** The intent of the RH-2 Zone is to create, maintain, and enhance areas for single-family living on lots of at least twenty-five thousand (25,000) square feet, and is appropriate in portions of the Oakland Hills.

3. **RH-3 Hillside Residential - 3 Zone.** The intent of the RH-3 Zone is to create, maintain, and enhance areas for single-family dwellings on lots of at least twelve thousand (12,000) square feet and is appropriate in portions of the Oakland Hills.

4. **RH-4 Hillside Residential - 4 Zone.** The intent of the RH-4 Zone is to create, maintain, and enhance areas for single-family dwellings on lots of six thousand five hundred (6,500) to eight thousand (8,000) square feet and is typically appropriate in already developed areas of the Oakland Hills.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.13.020 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.13.030 Permitted and conditionally permitted activities.

Table 17.13.01 lists the permitted, conditionally permitted, and prohibited activities in the RH Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.13.01: Permitted and Conditionally Permitted Activities

Activities	Zones				Additional Regulations
	RH-1	**RH-2**	**RH-3**	**RH-4**	
Residential Activities					
Permanent	P	P	P	P	
Residential Care	P(L1)	P(L1)	P(L1)	P(L1)	17.103.010
Supportive Housing	P	P	P	P	
Transitional Housing	P	P	P	P	
Emergency Shelter	—	—	—	—	
Semi-Transient	—	—	—	—	
Bed and Breakfast	—	—	—	—	
Civic Activities					
Essential Service	P	P	P	P	
Limited Child-Care Activities	P	P	P	P	
Community Assembly	C	C	C	C	
Recreational Assembly	C	C	C	C	
Community Education	C	C	C	C	
Nonassembly Cultural	C	C	C	C	
Administrative	C	C	C	C	
Health Care	—	—	—	—	
Special Health Care	—	—	—	—	
Utility and Vehicular	C	C	C	C	

Activities	Zones				Additional Regulations
	RH-1	**RH-2**	**RH-3**	**RH-4**	
Extensive Impact	C	C	C	C	
Commercial Activities (all)	—	—	—	—	
Industrial Activities (all)	—	—	—	—	
Agriculture and Extractive Activities					
Limited Agriculture	P(L2)	P(L2)	P(L2)	P(L2)	
Extensive Agriculture	C(L3)	C(L3)	C(L3)	C(L3)	
Plant Nursery	C	C	C	C	
Mining and Quarrying	—	—	—	—	
Accessory off-street parking serving prohibited activities	C	C	C	C	17.116.075
Activities that are listed as prohibited. but are permitted or conditionally permitted on nearby lots in an adjacent zone	C	C	C	C	17.102.110

Limitations on Table 17.13.01:

L1. Residential Care is only permitted in a One-Family Dwelling Residential Facility. No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any on-site sales occur no more than two (2) times per week between the hours of 8:00 am and 9:00 pm in a temporary movable structure not exceeding two hundred (200) square feet in size; conditionally permitted if the activity is larger in either land area, or in sales area, frequency, or hours of operation (see Chapter 17.134 for the CUP procedure).

L3. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.13.040 Permitted and conditionally permitted facilities.

Table 17.13.02 lists the permitted, conditionally permitted, and prohibited facilities in the RH Zones. The descriptions of these facilities are contained in Chapter 17.10. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the table.

"—" designates facilities that are prohibited.

Table 17.13.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones				Additional Regulations
	RH-1	**RH-2**	**RH-3**	**RH-4**	
Residential Facilities					
One-Family Dwelling	P	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	P	17.103.080
Two-Family Dwelling	—	—	—	—	
Multifamily Dwelling	—	—	—	—	
Rooming House	—	—	—	—	
Mobile Home	—	—	—	—	
Nonresidential Facilities					
Enclosed Nonresidential	P	P	P	P	
Open Nonresidential	P	P	P	P	
Sidewalk Cafe	—	—	—	—	
Drive-In Nonresidential	—	—	—	—	
Drive-Through Nonresidential	—	—	—	—	
Telecommunications Facilities					
Micro Telecommunications	C	C	C	C	17.128
Mini Telecommunications	C	C	C	C	17.128
Macro Telecommunications	C	C	C	C	17.128
Monopole Telecommunications	C(L1)	C(L1)	C(L1)	C(L1)	17.128
Tower Telecommunications	—	—	—	—	17.128
Sign Facilities					
Residential Signs	P	P	P	P	17.104
Special Signs	P	P	P	P	17.104
Development Signs	P	P	P	P	17.104
Realty Signs	P	P	P	P	17.104
Civic Signs	P	P	P	P	17.104

Facilities	Zones				Additional Regulations
	RH-1	**RH-2**	**RH-3**	**RH-4**	
Business Signs	—	—	—	—	17.104
Advertising Signs	—	—	—	—	17.104

Limitations on Table 17.13.01:

L1. Monopole Telecommunications Facilities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, the proposal must meet the following use permit criterion:

1. There is no existing structure that can accommodate the proposed antenna.

To meet this criterion, the applicant must provide a site alternative plan that demonstrates that there is no existing structure that can accommodate the antenna.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.13.050 Property development standards.

A. Zone Specific Standards. Table 17.13.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "—" indicates that a standard is not required in the specified zone.

Table 17.13.03: Property Development Standards

Development Standards	Zones				Additional Regulations
	RH-1	**RH-2**	**RH-3**	**RH-4**	
Minimum Lot Dimensions					
Lot Width mean	100 ft	100 ft	90 ft	45 ft	1
Frontage	25 ft	25 ft	25 ft	25 ft	1
Lot area	43,560 sf	25,000 sf	12,000 sf	6,500 sf or 8,000 sf	1, 2, 3
Maximum Density	1 primary dwelling unit per lot				4
Minimum Setbacks					
Minimum front (≤20% street-to-setback gradient)	25 ft.	25 ft.	20 ft.	20 ft.	5, 6
Minimum front (>20% street-to-setback gradient)	5 ft.	5 ft.	5 ft.	5 ft.	5, 6, 7
Minimum interior side ≤20%	6 ft./15%	6 ft./15%	6 ft./10%	5 ft.	8, 9

Development Standards	Zones				Additional Regulations
	RH-1	**RH-2**	**RH-3**	**RH-4**	
footprint slope					
Minimum interior side >20% footprint slope	6 ft./15%	6 ft./15%	6 ft./10%	5 ft./10%	8, 9
Minimum street side	6 ft.	6 ft.	6 ft.	5 ft.	5, 10
Rear	35 ft.	35 ft.	25 ft.	20 ft.	7, 10, 11
Maximum Lot Coverage and Floor Area Ratio (FAR)	See Table 17.13.04				
Height Regulations for All Lots with a Footprint Slope of ≤20%					
Maximum wall height primary building	25 ft.	25 ft.	25 ft.	25 ft.	13, 14
Maximum pitched roof height primary building	30 ft.	30 ft.	30 ft.	30 ft.	13, 14
Maximum height for accessory structures	15 ft.	15 ft.	15 ft.	15 ft.	13, 14
Height Regulations for all Lots with a Footprint Slope of >20%	See Table 17.13.05 for Height regulations for all lots with a footprint slope of >20%				
Maximum Wall Length Before Articulation Required	40 ft.	40 ft.	40 ft.	40 ft.	15
Minimum Parking					
Minimum parking spaces required per Primary Unit	2	2	2	2	16
Additional parking spaces required for Secondary Unit	1	1	1	1	16, 17

Additional Regulations for Table 17.13.03:

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, width mean and street frontage regulations. In the RH-3 Zone, the minimum average lot width of all lots within a subdivision shall be ninety (90) feet, and the minimum lot width of any individual lot within such subdivision shall be seventy-five (75) feet.

2. In the RH-4 Zone, for Subdivision Maps of four (4) or fewer lots where each lot created has a buildable area slope of less than or equal to twenty percent (20%), the minimum lot size is six thousand five hundred (6,500) square feet. For Subdivision Maps where any one lot buildable area slope is greater than twenty percent (20%) or for Subdivision Maps of five (5) or more lots, the minimum lot size is increased to eight thousand (8,000) square feet.

a. In order to determine buildable area slope of a subdivision, each lot shown on the Subdivision Map shall indicate the buildable area in dashed lines. The buildable area slope is measured at the steepest point between the front and rear setbacks (not included within the side setbacks).

3. See Subsection 16.16.170.F in the Subdivision regulations for additional regulations regarding minimum lot size. In the RH-3 Zone, the minimum average lot area of all lots within a subdivision shall be twelve thousand (12,000) square feet, and the minimum lot area of any individual lot within such subdivision shall be ten thousand (10,000) square feet.

4. A Secondary Unit may be permitted when there is no more than one (1) Primary Unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

5. On lots with only Residential Facilities, paved surfaces within required street-fronting yards, and any unimproved rights-of-way of adjacent streets, shall be limited to fifty percent (50%) on interior lots and thirty percent (30%) on corner lots. Exceptions: The maximum percentages of paved surfaces specified in this additional regulation may be exceeded within unimproved rights-of-way in the following cases upon issuance of a private construction of public improvements (P-job) permit or if undertaken directly by the City or by a private contractor under contract to the City:

a. Roadway construction or widening;

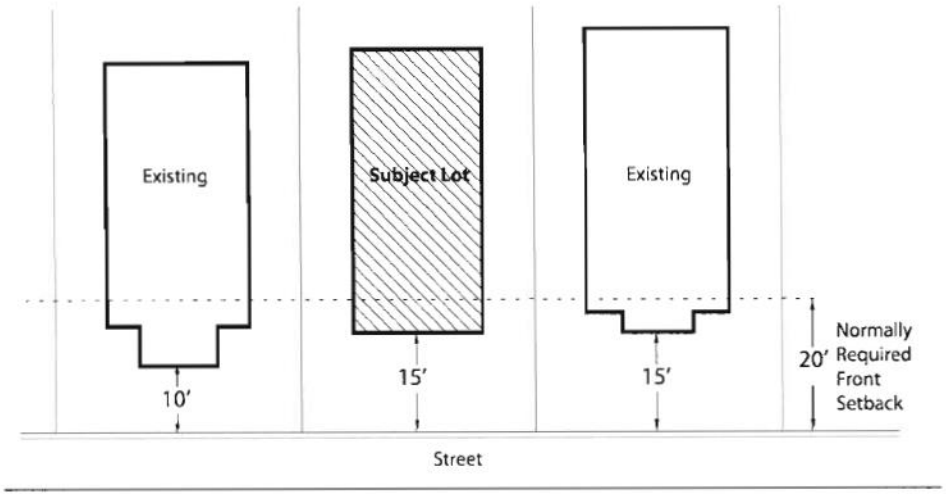
b. Sidewalk construction or widening; and

c. Any work pursuant to an approved final map, parcel map or final development plan pursuant to a Planned Unit Development (PUD) permit.

For purposes of this additional regulation, an unimproved right-of-way is the portion of a street or alley right-of-way that is not paved.

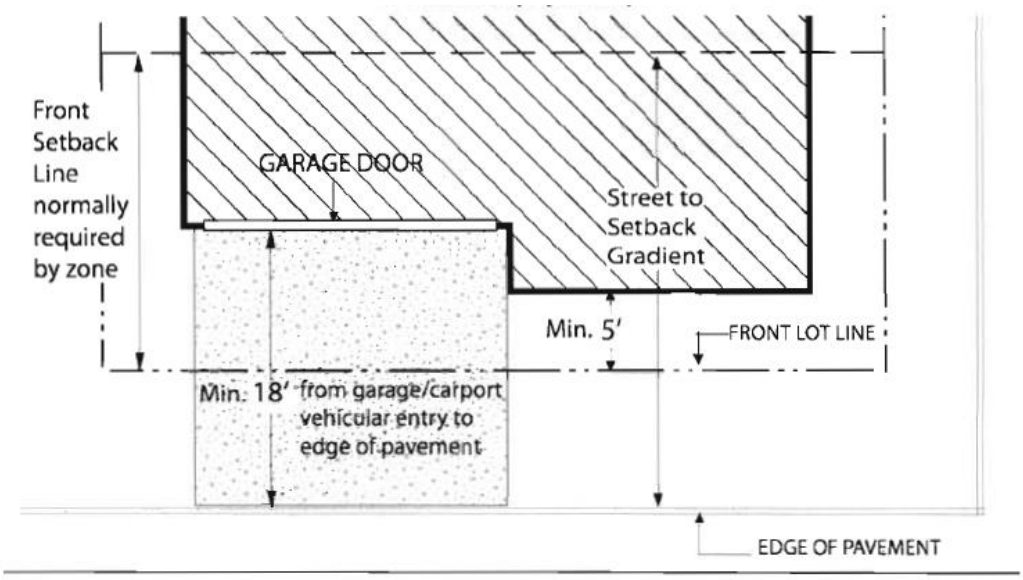
6. In the RH-4 Zone, if adjacent lots abutting the side lot lines of the subject lot both contain principle Residential Facilities that have front setbacks with a depth of less than twenty (20) feet, the minimum front setback may be reduced for buildings and other structures on the subject lot up to a line parallel to the front lot line and extended from the most forward projection of the principle Residential Facility on the adjacent lots having the deeper front setback depth, provided such projection is enclosed, has a wall height of at least eight (8) feet, and has a width of at least five (5) feet. In the case of a corner lot or lot that has a vacant parcel next to it, this same principle may apply if the two (2) lots adjacent to the corner lot or lot along its front lot line have less than a twenty (20) foot front setback (see Illustration for Table 17.13.03, [Additional Regulation 6], below). Also, see Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.13.03 [Additional Regulation 6
*for illustration purposes only



7. The minimum front setback depth required by the applicable individual zone shall be reduced to five (5) feet on any lot with a street-to-setback gradient that exceeds twenty percent (20%), provided, however, that the distance from the edge of the pavement to a garage or carport elevation containing one or more vehicular entries shall be at least eighteen (18) feet (see Illustration for Table 17.13.03, [Additional Regulation 7], below). See Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.13.03 [Additional Regulation 7]
*for illustration purposes only

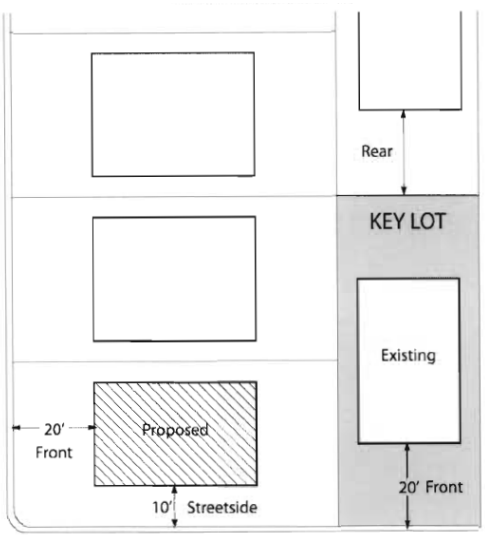


8. See Section 17.108.080 for the required interior side and rear setbacks on a lot containing two (2) or more living units and opposite a legally-required living room window.

9. The minimum interior side setback is the greater of the two (2) listed setbacks. Also, see Section 17.108.130 for allowed projections into setbacks.

10. In all Residential Zones, on every corner lot which abuts to the rear a key lot which is in a Residential Zone, there shall be provided on the street side of such corner lot a side setback with a minimum width equal to one-half (½) of the minimum front setback depth required on the key lot and no less than the minimum side setback width required along an interior side lot line of the corner lot. However, such side setback shall not be required to exceed five (5) feet in width if it would reduce to less than twenty-five (25) feet the buildable width of any corner lot. Such setback shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130 (see Illustration for Table 17.13.03. [Additional Regulation 10], below). See also Subsection 17.110.040.C for special controls on location of detached accessory buildings on such corner lots. See Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.13.03 [Additional Regulation 10]
*for illustration purposes only



11. Wherever a rear lot line abuts an alley, one-half (½) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback depth actually on the lot itself shall not be reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

12. For lots which abut an adjoining rear setback, the minimum rear setback depth shall be increased by an additional one-half (½) foot of rear setback depth for each additional one (1) foot of lot depth over one hundred (100) feet, up to a maximum rear setback depth of forty (40) feet.

13. See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

14. If at least sixty percent (60%) of the buildings in the immediate context are no more than one (1) story in height, the maximum wall height shall be fifteen (15) feet within the front twelve (12) feet of buildable area. The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street; however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any approval of any variance, conditional use permit, design review, determination of exemption from design review, or other special zoning approval or, if no special zoning approval is required, part of any Planning Department approval of a building permit application.

15. If the total wall length within ten (10) feet of the side lot line exceeds forty (40) feet, then the building wall shall be articulated by at least one (1) section of additional setback. See design guidelines for more specific bulk and context standards.

16. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117. Additional parking standards apply within the S-11 Zone, as prescribed in Chapter 17.92.

17. Unless otherwise specified in Section 17.103.080, one (1) parking space for the Secondary Unit is required in addition to any required parking spaces for the Primary Unit. Additional parking regulations that apply to Secondary Units are provided in Section 17.103.080.

B. Floor Area Ratio (FAR) and Lot Coverage. Table 17.13.04 below prescribes FAR and lot coverage standards associated with lot sizes. The numbers in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

Table 17.13.04 Floor Area Ratio (FAR) and Lot Coverage

Regulation	Lot Size in Square Feet					Additional Regulations
	<5,000	≥5,000 and <12,000	≥12,000 and <25,000	≥25,000 and <43,560	≥43,560	
Maximum FAR	0.55	0.50	0.45	0.30	0.20	1
Maximum Lot Coverage (%)	40%	40%	30%	20%	15%	2

Additional Regulations for Table 17.13.04:

1. Lots with less than five thousand (5,000) square feet in area may have a dwelling with at least two thousand (2,000) square feet, regardless of FAR listed.

2. Lots with less than five thousand (5,000) square feet in area may have a lot coverage of up to two thousand (2,000) square feet regardless of lot coverage percentage (%) listed.

C. **Height.** Table 17.13.05 below prescribes height standards associated with different sloped lots. The numbers in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the regulation is not applicable to the specified footprint slope category.

Table 17.13.05 Height Regulations for all Lots with a Footprint Slope of >20%

Regulation	Downslope Lot Height Regulations With a Footprint Slope of:			Upslope Lot Height Regulations With a Footprint Slope of:	Additional Regulations
	>20% and ≤40%	>40% and ≤60%	>60%	>20%	
Maximum Height for Detached Accessory Structures	15 ft.	15 ft.	15 ft.	15 ft.	1
Maximum Wall Height Primary Building	32 ft.	34 ft.	36 ft.	32 ft.	1, 2
Maximum Wall Height Primary Building with a CUP	36 ft.	38 ft.	40 ft.	35 ft.	1
Maximum Pitched Roof Height Primary Building	36 ft.	38 ft.	40 ft.	35 ft.	1, 2

Regulation	Downslope Lot Height Regulations With a Footprint Slope of:			Upslope Lot Height Regulations With a Footprint Slope of:	Additional Regulations
	>20% and ≤40%	>40% and ≤60%	>60%	>20%	
Maximum Height Above Edge of Pavement	18 ft.	18 ft.	18 ft.	N/A	1
Maximum Height Above the Ground Elevation at the Rear Setback Line	N/A	N/A	N/A	24 ft.	1
Maximum Height from Finished or Existing Grade (whichever is lower) Within 20' of the Front Property Line	N/A	N/A	N/A	24 ft.	1, 3

Additional Regulations for Table 17.13.05:

1. See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

2. On a downslope lot greater than forty percent (40%) footprint slope, the rear wall of an attached garage or carport may exceed the wall height and roof height by five (5) feet, but may not exceed eighteen (18) feet above ground elevation at edge of pavement, if the garage or carport conforms with all of the following criteria:

a. Maximum width is twenty-two (22) feet and maximum depth is twenty (20) feet; and

b. Garage or carport floor is at the same level as the edge of the street pavement resulting from the project at the center point of the driveway entrance or is at a lower level; and

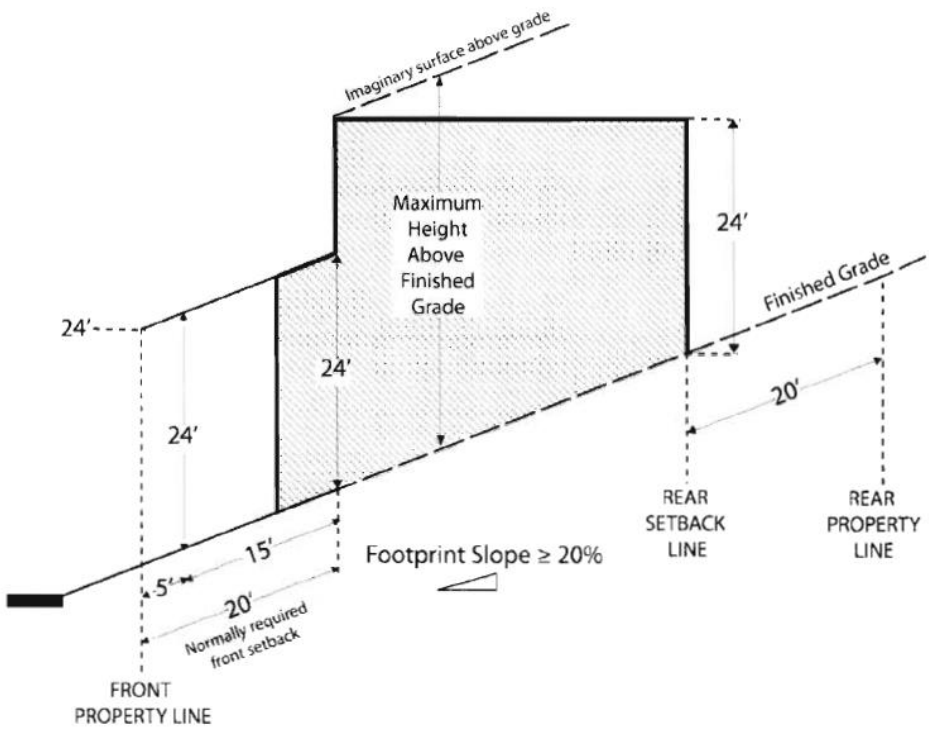
c. Maximum height above the garage or carport floor is ten (10) feet for walls to the top of the plate or flat roof and twelve (12) feet for pitched roofs.

See Illustration for Table 17.13.05 [Additional Regulation 2], below.

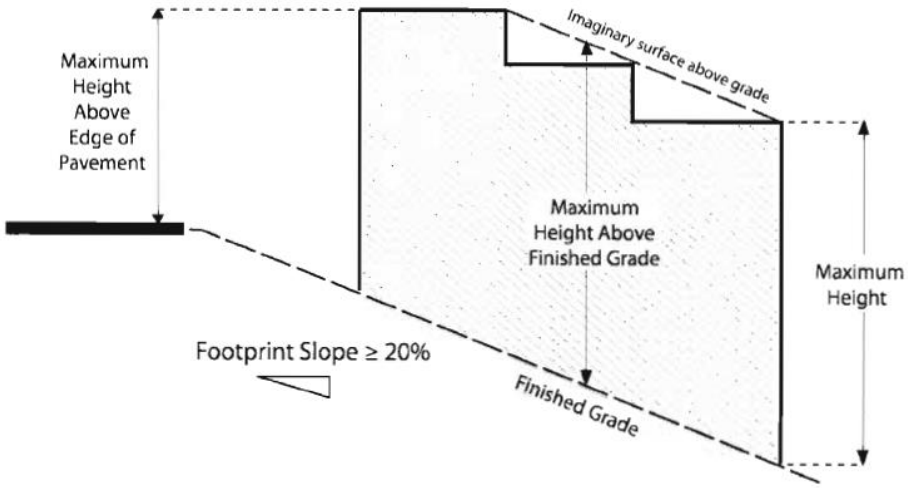
3. The building height is measured from finished or existing grade, whichever is lower.

Illustration for Table 17.13.05 [Additional Regulation 2]
*for illustration purposes only

Upslope



Downslope



(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.13.060 Special regulations for Planned Unit Developments.

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 RH zones, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, changed the title of Section 17.13.060 from "Special regulations for mini-lot and planned unit developments" to "Special regulations for planned unit developments." The historical notation has been preserved for reference purposes.

17.13.070 Other zoning provisions.

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

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

C. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.104, 17.106, and 17.108 shall apply in the RH Zones.

D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in RH Zones.

E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the RH Zones.

F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

Chapter 17.14 RESERVED [5]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.14 in its entirety, which pertained to R-20 low density residential zone regulations and derived from the prior planning code, §§ 3350, 3352—3356, 3363—3365, 3369, 3370, 3372—3374; Ord. No. 11807, § 3, adopted 1996; Ord. No. 11904, §§ 5.07, 5.09, 5.10, 5.13, 5.60, adopted 1996; Ord. No. 12116, § 2, adopted 1999; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12199, §§ 4B, 5A, adopted 2000; Ord. No. 12376, § 3, adopted 2001; Ord. No. 12501, §§ 14—16, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.15 RD DETACHED UNIT RESIDENTIAL ZONES REGULATIONS

Sections:

17.15.010 Title, intent, and description.

17.15.020 Required design review process.

17.15.030 Permitted and conditionally permitted activities.

17.15.040 Permitted and conditionally permitted facilities.

17.15.050 Property development standards.

17.15.060 Special regulations for mini-lot and Planned Unit Developments.

17.15.070 Other zoning provisions.

17.15.010 Title, intent, and description.

A. Title and Intent. The provisions of this Chapter shall be known as the RD Detached Unit Residential Regulations. The intent of the Detached Unit Residential (RD) Zones is to create, maintain, and enhance residential areas primarily characterized by detached, single-unit structures.

B. Description of Zones. This Chapter establishes land use regulations for the following two (2) zones:

1. **RD-1 Detached Unit Residential - 1 Zone.** The intent of the RD-1 Zone is to create, maintain, and enhance areas with detached, single unit structures. A limited number of commercial uses will be permitted or conditionally permitted in existing Nonresidential Facilities.

2. **RD-2 Detached Unit Residential - 2 Zone.** The intent of the RD-2 Zone is to create, maintain, and enhance areas with detached, single unit structures, with allowances for Two-Family structures on lots larger than six thousand (6,000) square feet. A limited number of commercial uses will be permitted or conditionally permitted in existing Nonresidential Facilities.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.15.020 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.15.030 Permitted and conditionally permitted activities.

Table 17.15.01 lists the permitted, conditionally permitted, and prohibited activities in the RD Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.15.01: Permitted and Conditionally Permitted Activities

Activities	Zones		Additional Regulations
	RD-1	**RD-2**	
Residential Activities			
Permanent	P	P	
Residential Care	P(L1)	P(L1)	17.103.010
Supportive Housing	P	P	
Transitional Housing	P	P	
Emergency Shelter	—	—	
Semi-Transient	—	—	
Bed and Breakfast	C	C	17.10.125
Civic Activities			
Essential Service	P	P	
Limited Child-Care Activities	P	P	
Community Assembly	C	C	
Recreational Assembly	C	C	
Community Education	C	C	
Nonassembly Cultural	C	C	
Administrative	C	C	
Health Care	—	—	
Special Health Care	—	—	
Utility and Vehicular	C	C	
Extensive Impact	C	C	

Activities	Zones		Additional Regulations
	RD-1	**RD-2**	
Commercial Activities			
General Food Sales	C(L2)(L3)	C(L2)(L3)	
Full Service Restaurants	C(L2)(L3)	C(L2)(L3)	
Limited Service Restaurant and Cafe	C(L2)(L3)	C(L2)(L3)	
Fast-Food Restaurant	—	—	
Convenience Market	—	—	
Alcoholic Beverage Sales	—(L4)	—(L4)	
Mechanical or Electronic Games	—	—	
Medical Service	—	—	
General Retail Sales	C(L2)(L3)	C(L2)(L3)	
Large-Scale Combined Retail and Grocery Sales	—	—	
Consumer Service	—	—	
Consultative and Financial Service	—	—	
Check Cashier and Check Cashing	—	—	
Consumer Cleaning and Repair Service	—	—	
Consumer Dry Cleaning Plant	—	—	
Group Assembly	—	—	
Personal Instruction and Improvement Services	—	—	
Administrative	P(L3)(L5)	P(L3)(L5)	
Business, Communication, and Media Services	—	—	
Broadcasting and Recording Services Commercial Activities	—	—	
Research Service	—	—	
General Wholesale Sales	—	—	
Transient Habitation	—	—	
Building Material Sales	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	
Taxi and Light Fleet-Based Services	—	—	
Automotive Fee Parking	—	—	
Animal Boarding	—	—	

Activities	Zones		Additional Regulations
	RD-1	**RD-2**	
Animal Care	—	—	
Undertaking Service	—	—	
Industrial Activities (all)	—		
Agriculture and Extractive Activities			
Limited Agriculture	P(L6)	P(L6)	
Extensive Agriculture	C(L7)	C(L7)	
Plant Nursery	C	C	
Mining and Quarrying	—	—	
Accessory off-street parking serving prohibited activities	C	C	17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone	C	C	17.102.110

Limitations on Table 17.15.01:

L1. Residential Care is only permitted in a One-Family Dwelling Residential Facility. No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. These activities may only be located in an existing ground floor of a Nonresidential Facility that was built prior the effective date of this Chapter (April 14, 2011). For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. Also, these activities may only operate within the hours of 7:00 a.m. and 10:00 p.m.

L3. The overall outside dimensions of an existing Nonresidential Facility built prior to the effective date of this Chapter (April 14, 2011) devoted to this activity shall not be increased; and no open parking, loading, or production serving such activity shall be relocated or increased in size. For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. This regulation supersedes the applicable provisions in Chapter 17.114.

L4. In the case of an existing, nonconforming Alcoholic Beverage Sales Activity, the total floor area, open areas, or outside building dimensions occupied by the establishment shall not be increased. This regulation supersedes the Nonconforming Activity Section 17.114.080(A)1.

L5. These activities may only be located in an existing ground floor of a Nonresidential Facility that was built prior to the effective date of this Chapter (April 14, 2011). For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. Also, these activities may only operate within the hours of 7:00 a.m. and 10:00 p.m.; a Conditional Use Permit (CUP) is required if the ground floor Nonresidential Facility exceeds one thousand five hundred (1,500) square feet (see Chapter 17.134 for the CUP procedure).

L6. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any on-site sales occur no more than two (2) times per week between the hours of 8:00 am and 9:00 pm in a temporary movable structure not exceeding two hundred (200) square feet in size; conditionally permitted if the activity is larger in either land area, or in sales area, frequency, or hours of operation (see Chapter 17.134 for the CUP procedure).

L7. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.15.040 Permitted and conditionally permitted facilities.

Table 17.15.02 lists the permitted, conditionally permitted, and prohibited facilities in the RD Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the table.

"—" designates facilities that are prohibited.

Table 17.15.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones		Additional Regulations
	RD-1	**RD-2**	
Residential Facilities			
One-Family Dwelling	P	P	
One-Family Dwelling with Secondary Unit	P	P	17.103.080
Two-Family Dwelling	—	C(L1)	
Multifamily Dwelling	—	—	
Rooming House	—	—	
Mobile Home	—	—	
Nonresidential Facilities			
Enclosed Nonresidential	P	P	
Open Nonresidential	P	P	
Sidewalk Cafe	P (L2)	P (L2)	17.103.090
Drive-In Nonresidential	—	—	

Facilities	Zones		Additional Regulations
	RD-1	**RD-2**	
Drive-Through Nonresidential	—	—	
Telecommunications Facilities			
Micro Telecommunications	C	C	17.128
Mini Telecommunications	C	C	17.128
Macro Telecommunications	C	C	17.128
Monopole Telecommunications	C	C	17.128
Tower Telecommunications	—	—	17.128
Sign Facilities			
Residential Signs	P	P	17.104
Special Signs	P	P	17.104
Development Signs	P	P	17.104
Realty Signs	P	P	17.104
Civic Signs	P	P	17.104
Business Signs	P (L3)	P (L3)	17.104
Advertising Signs	—	—	17.104

Limitations on Table 17.15.02:

L1. See Table 17.15.03, Property Development Standards, for additional regulations on this conditionally permitted density.

L2. Sidewalk cafes are allowed only as an accessory facility to an already approved Full Service Restaurant or Limited Service Restaurant and Cafe. The sidewalk cafe may only operate within the hours of 7:00 a.m. to 10:00 p.m. No more than three (3) tables and no more than ten (10) chairs or seats are allowed by right. If more tables or chairs are requested, a Conditional Use Permit (CUP) is required (see Chapter 17.134 for the CUP procedure). See Section 17.103.090 for other regulations regarding Sidewalk Cafes; however, the regulations in this Section supersede any contradicting regulations in Section 17.103.090.

L3. Business Signs are only allowed on existing Nonresidential Facilities built prior to the effective date of this Chapter (April 14, 2011); otherwise Chapter 17.104 applies. For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. Also, the maximum aggregate area of display surface of all Business, Civic, and Residential Signs on any one lot shall be 0.5 square foot for each one foot of lot frontage in the case of an interior lot, or 0.25 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed 100 square feet on any one property. See Chapter 17.104 for other regulations regarding Business Signs; however, the regulations in this Section supersede any contradicting regulations in Chapter 17.104.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.15.050 Property development standards.

A. Zone Specific Standards. Table 17.15.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. “N/A” indicates that a standard is not applicable in the specified zone.

Table 17.15.03: Property Development Standards

Development Standards	Zones		Additional Regulations
	RD-1	**RD-2**	
Minimum Lot Dimensions			
Lot Width mean	45 ft.	45 ft.	1
Frontage	25 ft.	25 ft.	1
Lot area	5,000 sf.	5,000 sf.	1, 2
Maximum Density			
Permitted density	1 primary dwelling unit per lot	1 primary dwelling unit per lot	3, 4
Conditionally permitted density	N/A	2 units on lots 6,000 sf or greater	3, 5
Minimum Setbacks			
Minimum front (<20% street-to-setback gradient)	20 ft.	20 ft.	6
Minimum front (>20% street-to-setback gradient)	5 ft.	5 ft.	6, 7, 8
Minimum interior side <20% footprint slope	5 ft.	5 ft.	9, 10
Minimum interior side >20% footprint slope	5 ft./10%	5 ft.	9, 10, 11
Minimum street side	5 ft.	5 ft.	8, 9, 12
Rear	20 ft.	15 ft.	9, 13, 14
Reduced Setbacks for Smaller Lots	See Table 17.15.04 for reduced setbacks for smaller lots		
Floor Area Ratio (FAR) and Lot Coverage	See Table 17.15.05		
Height Regulations for All Lots with a Footprint Slope of <20%			
Maximum wall height primary building	25 ft.	25 ft.	14, 16

Development Standards	Zones		Additional Regulations
	RD-1	**RD-2**	
Maximum pitched roof height primary building	30 ft.	30 ft.	14, 16
Maximum height for accessory structures	15 ft.	15 ft.	14, 16
Height Regulations for all Lots with a Footprint Slope of >20%	See Table 17.15.06 for Height regulations for all lots with a footprint slope of >20%		
Maximum Wall Length Before Articulation Required	40 ft.	40 ft.	17
Minimum Parking			
Minimum parking spaces required per Primary Unit	2	1.5	18
Additional parking spaces required for Secondary Unit	1	1	18, 19
Minimum Open Space			
Group open space per Primary Unit	N/A	300 sf	20
Group open space per Primary Unit when private open space substituted	N/A	100 sf	20

Additional Regulations for Table 17.15.03:

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, lot width mean and street frontage regulations.

2. See Subsection 16.16.170.F in the Subdivision regulations for additional regulations regarding minimum lot area.

3. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

4. A Secondary Unit may be permitted when there is no more than one (1) Primary Unit on a lot, subject to the provisions of Section 17.103.080.

5. A minimum lot size of six thousand (6,000) square feet is required in order to apply for a conditional use permit for a second primary dwelling unit in the RD-2 Zone. A conditional use permit for a Two-Family Dwelling Residential Facility or for two (2) primary dwelling units on a lot may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the Conditional use Permit (CUP) procedure in Chapter 17.134 and to all of the following additional use permit criteria:

a. That the proposed development will not adversely affect adjoining property, nor the surrounding neighborhood, with consideration to be given to density; to the availability of

neighborhood facilities and play space; to the generation of traffic and the capacity of surrounding streets; and to all other similar, relevant factors;

b. That the site design and landscaping and the scale, height, length and width, bulk, coverage, and exterior treatment of structures are in harmony with neighborhood character and with facilities on nearby lots;

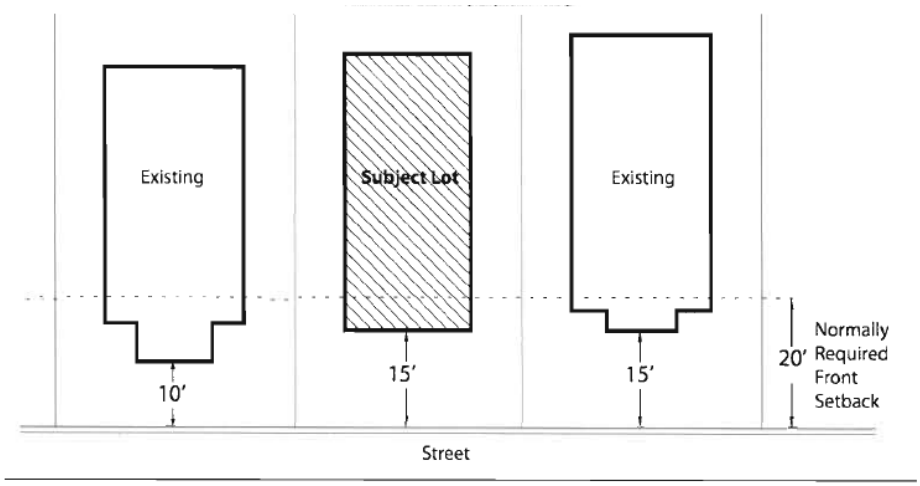
c. That the shape and siting of the facilities, and especially of any portions thereof which exceed one (1) story in height, are such as to minimize blocking of views and direct sunlight from nearby lots and from other Residential Facilities in the surrounding neighborhood;

d. That the design and site planning of the buildings, open areas, parking and service areas, and other facilities provide a convenient, attractive, and functional living environment; and that paths, stairways, accessways, and corridors are designed to ensure privacy;

e. That lot shape, size, and dimensions allow a development which will provide satisfactory internal living conditions without adversely affecting the privacy, safety, or residential amenity of adjacent residences.

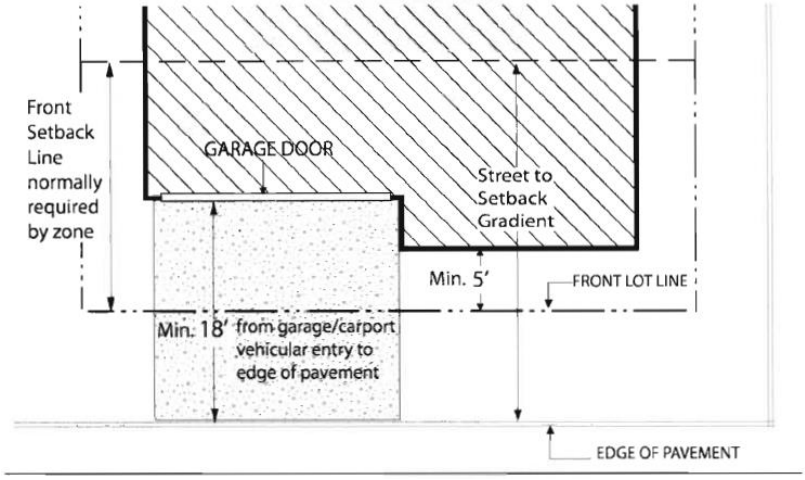
6. If adjacent lots abutting the side lot lines of the subject lot both contain principal Residential Facilities that have front setbacks with a depth of less than twenty (20) feet, the minimum front setback may be reduced for buildings and other structures on the subject lot up to a line parallel to the front lot line and extended from the most forward projection of the principal Residential Facility on the adjacent lots having the deeper front setback depth, provided such projection is enclosed, has a wall height of at least eight (8) feet, and has a width of at least five (5) feet. In the case of a corner lot or lot that has a vacant parcel next to it, this same principal may apply if the two (2) lots adjacent to the corner lot or lot along its front lot line have less than a twenty (20) foot front setback (see Illustration for Table 17.15.03 [Additional Regulation 6], below).

Illustration for Table 17.15.03 [Additional Regulation 6]
*for illustration purposes only



7. In all Detached Residential Zones, the minimum front setback depth otherwise required by the applicable individual zone regulations shall be reduced to five (5) feet on any lot with a street-to-setback gradient that exceeds twenty percent (20%), provided, however, that the distance from the edge of the pavement to a garage or carport elevation containing one or more vehicular entries shall be at least eighteen (18) feet (see Illustration for Table 17.15.03 [Additional Regulation 7], below. See Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.15.03 [Additional Regulation 7]
*for illustration purposes only



8. On lots with only Residential Facilities, paved surfaces within required street-fronting yards, and any unimproved rights-of-way of adjacent streets, shall be limited to fifty percent (50%) on interior lots and thirty percent (30%) on corner lots. Exceptions: The maximum percentages of paved surfaces specified in this additional regulation may be exceeded within unimproved rights-of-way in the following cases upon issuance of a private construction of public improvements (P-job) permit or if undertaken directly by the City or by a private contractor under contract to the City:

a. Roadway construction or widening;

b. Sidewalk construction or widening; and

c. Any work pursuant to an approved final map, parcel map or final development plan pursuant to a Planned Unit Development (PUD) permit.

For purposes of this additional regulation, an unimproved right-of-way is the portion of a street or alley right-of-way that is not paved.

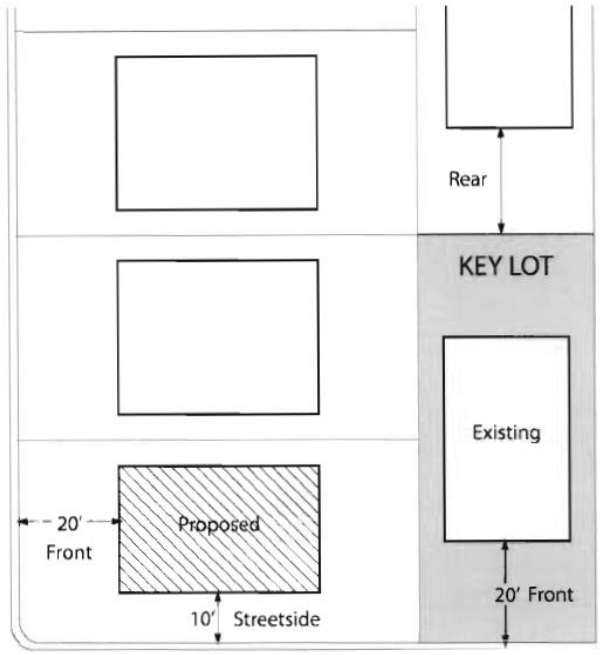
9. See Table 17.15.04 for reduced setbacks for smaller lots. See Section 17.108.130 for allowed projections into setbacks.

10. See Section 17.108.080 for the required interior side and rear setback on a lot containing two (2) or more living units and opposite a legally-required living room window.

11. For the RD-1 Zone, the minimum interior side setback is the greater of the two (2) listed setbacks, either five (5) feet or ten percent (10%) of the lot width, whichever is greater.

12. In all Residential Zones, on every corner lot which abuts to the rear a key lot which is in a Residential Zone, there shall be provided on the street side of such corner lot a side setback with a minimum width equal to one-half (½) of the minimum front setback depth required on the key lot and no less than the minimum side setback width required along an interior side lot line of the corner lot. However, such side setback shall not be required to exceed five (5) feet in width if it would reduce to less than twenty-five (25) feet the buildable width of any corner lot. Such setback shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130 (see Illustration for Table 17.15.03 [Additional Regulation 12], below). See also Subsection 17.110.040.C for special controls on location of detached accessory buildings on such corner lots.

Illustration for Table 17.15.03 [Additional Regulation 12]
*for illustration purposes only



13. Wherever a rear lot line abuts an alley, one-half (½) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback depth actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

14. In the RD-1 Zone, for lots which abut an adjoining rear setback, the minimum rear setback depth shall be increased by an additional one-half (½) foot of rear setback depth for each additional one (1) foot of lot depth over one hundred (100) feet, up to a maximum rear setback depth of forty (40) feet.

15. See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

16. If at least sixty percent (60%) of the buildings in the immediate context are no more than one (1) story in height, the maximum wall height shall be fifteen (15) feet within the front twelve (12) feet of buildable area. The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street; however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any approval of any variance, conditional use permit, design review, determination of exemption from design review, or other special zoning approval or, if no special zoning approval is required, part of any Planning Department approval of a building permit application.

17. If the total wall length within ten (10) feet of the side lot line exceeds forty (40) feet, then the building wall shall be articulated by at least one (1) section of additional setback. See design guidelines for more specific bulk regulations and context standards.

18. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117. Also, additional parking standards apply within the S-11 and S-12 Zones, as prescribed in Chapter 17.92 and Chapter 17.94.

19. Unless otherwise specified in Section 17.103.080, one (1) parking space for the Secondary Unit is required in addition to any required parking spaces for the Primary Unit. Additional parking regulations that apply to Secondary Units are provided in Section 17.103.080.

20. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount of one hundred (100) square feet per dwelling unit. All usable open space shall meet the standards contained in Chapter 17.126.

B. **Reduced Setbacks for Smaller Lots.** Table 17.15.04 below prescribes reduced setback standards for lots less than four thousand (4,000) square feet. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

Table 17.15.04 Reduced Setbacks for Smaller Lots

Regulation	Lot Size		Additional Regulations
	≤ 4,000 sf or < 40 feet wide	≤ 3,000 sf or < 35 feet wide	
Minimum Setbacks			
Minimum interior side	4 ft.	3 ft.	1
Minimum street side	4 ft.	3 ft.	1
Rear	15 ft.	15 ft.	1

Additional Regulations for Table 17.15.04:

1. See Section 17.108.130 for allowed projections into setbacks.

C. Floor Area Ratio (FAR) and Lot Coverage. Table 17.15.05 below prescribes FAR and lot coverage standards associated with lot sizes. The numbers in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

Table 17.15.05 Floor Area Ratio (FAR) and Lot Coverage

Regulation	Lot Size in Square Feet					Additional Regulations
	<5,000	≥5,000 and <12,000	≥12,000 and <25,000	≥25,000 and <43,560	≥ 43,560	
Maximum FAR for Lots with a Footprint Slope > 20%	0.55	0.50	0.45	0.30	0.20	1

Maximum Lot Coverage (%)	40%	40%	30%	20%	15%	2

Additional Regulations for Table 17.15.05:

1. FAR only applies to lots that have a footprint slope of greater than twenty percent (20%). Lots less than five thousand (5,000) square feet may have a dwelling with a minimum of two thousand (2,000) square feet of floor area, regardless of FAR listed.

2. Lots less than five thousand (5,000) square feet may have a lot coverage of up to two thousand (2,000) square feet regardless of lot coverage percentage (%) listed.

D. **Height.** Table 17.15.06 below prescribes height standards associated with different sloped lots. The numbers in the right-hand column refer to the additional regulations listed at the end of the Table. "N/A" designates the regulation is not applicable to the specified footprint slope category.

Table 17.15.06 Height Regulations for all Lots with a Footprint Slope of >20%

Regulation	Downslope Lot Height Regulations With a Footprint Slope of:			Upslope Lot Height Regulations With a Footprint Slope of:	Additional Regulations
	>20% and <40%	>40% and <60%	>60%	>20%	
Maximum Height for Detached Accessory Structures	15 ft.	15 ft.	15 ft.	15 ft.	1
Maximum Wall Height Primary Building	32 ft.	34 ft.	36 ft.	32 ft.	1, 2
Maximum Wall Height Primary Building with a CUP	36 ft.	38 ft.	40 ft.	35 ft.	1
Maximum Pitched Roof Height Primary Building	36 ft.	38 ft.	40 ft.	35 ft.	1, 2
Maximum Height Above Edge of Pavement	18 ft.	18 ft.	18 ft.	N/A	1
Maximum Height Above the Ground Elevation at the Rear Setback Line	N/A	N/A	N/A	24 ft.	1
Maximum Height from Finished or Existing Grade (whichever is greater) Within 20' of the Front Property Line	N/A	N/A	N/A	24 ft.	1, 3

Additional Regulations for Table 17.15.06:

1. See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

2. On a downslope lot greater than forty percent (40%) footprint slope, the rear wall of an attached garage or carport may exceed the wall height and roof height by five (5) feet, but may not exceed eighteen (18) feet above ground elevation at edge of pavement, if the garage or carport conforms with all of the following criteria:

a. Maximum width is twenty-two (22) feet and maximum depth is twenty (20) feet; and

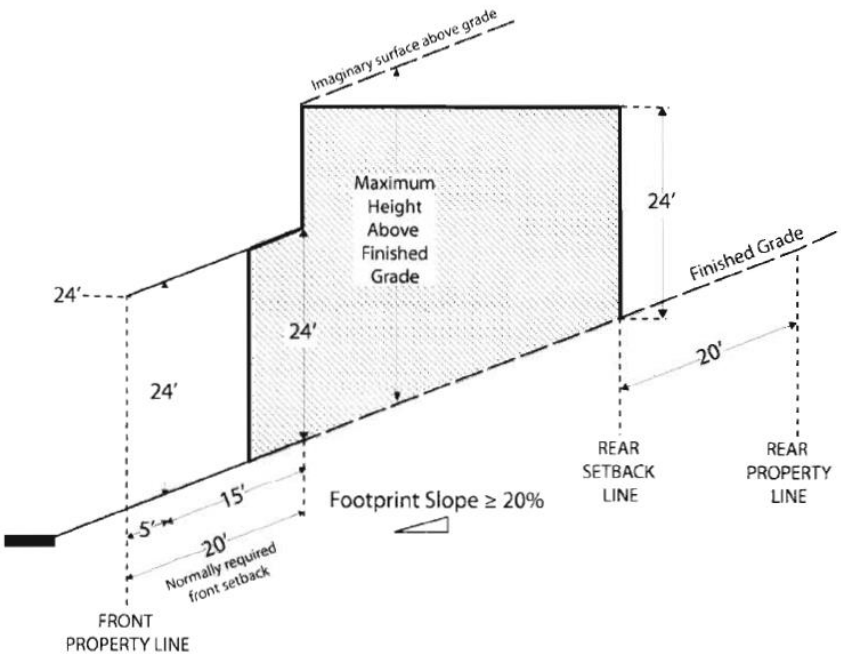
b. Garage or carport floor is at the same level as the edge of the street pavement resulting from the project at the center point of the driveway entrance or is at a lower level; and

c. Maximum height above the garage or carport floor is ten (10) feet for walls to the top of the plate or flat roof and twelve (12) feet for pitched roofs (see Illustration for Table 17.15.06 [Additional Regulation 2], below).

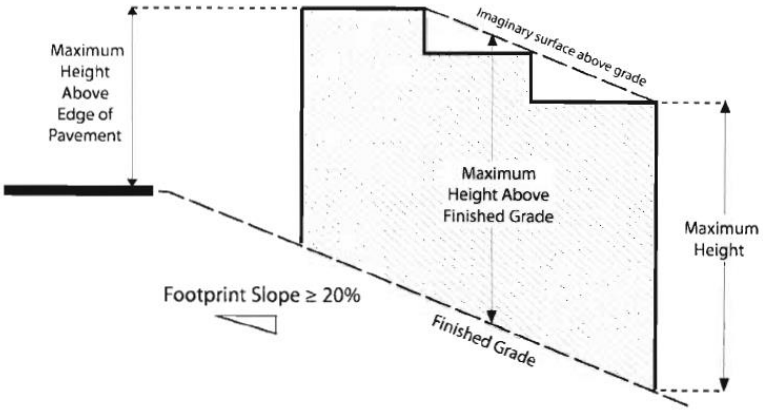
3. The building height is measured from finished or existing grade, whichever is lower.

Illustration for Table 17.15.06 [Additional Regulation 2]
*for illustration purposes only

Upslope



Downslope



(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.15.060 Special regulations for Mini-Lot and Planned Unit Developments.

A. **Mini-Lot Developments.** In Mini-Lot Developments, certain regulations that otherwise apply to individual lots in the RD-1 Zones may be waived or modified when and as prescribed in Chapter 17.142.

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 RD Zones, and certain of the

other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.15.070 Other zoning provisions.

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

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

C. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.104, 17.106, and 17.108 shall apply in the RD Zones.

D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in RD Zones.

E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the RD Zones.

F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

Chapter 17.16 RESERVED [6]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.16, §§ 17.16.010—17.16.170 in its entirety, which pertained to R-30 one-family residential zone regulations and derived from the prior planning code, §§ 3450, 3452—3456, 3463—3465, 3469, 3470, 3472—3474; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.07, 5.09, 5.10, 5.14, 5.60, adopted 1996; Ord. No. 12116, § 2, adopted 1999; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12199, §§ 4C, 5A, adopted 2000; Ord. No. 12376, § 3, adopted 2001; Ord. No. 12406, § 4, adopted 2002; Ord. No. 12501, §§ 18—20, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.17 RM MIXED HOUSING TYPE RESIDENTIAL ZONES REGULATIONS

Sections:

17.17.010 Title, intent, and description.

17.17.020 Required design review process.

17.17.030 Permitted and conditionally permitted activities.

17.17.040 Permitted and conditionally permitted facilities.

17.17.050 Property development standards.

17.17.060 Special regulations for mini-lot and Planned Unit Developments.

17.17.070 Other zoning provisions.

17.17.010 Title, intent, and description.

A. Title and Intent. The provisions of this Chapter shall be known as the RM Mixed Housing Type Residential Regulations. The intent of the Mixed Housing Type Residential (RM) Zones is to create, maintain, and enhance residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate.

B. Description of Primary Zones. This Chapter establishes land use regulations for the following four (4) primary zones:

1. **RM-1 Mixed Housing Type Residential - 1 Zone.** The intent of the RM-1 Zone is to create, maintain, and enhance residential areas characterized by a mix of single family homes and duplexes, and neighborhood businesses where appropriate.

2. **RM-2 Mixed Housing Type Residential - 2 Zone.** The intent of the RM-2 Zone is to create, maintain, and enhance residential areas characterized by a mix of single family homes, duplexes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate.

3. **RM-3 Mixed Housing Type Residential - 3 Zone.** The intent of the RM-3 Zone is to create, maintain, and enhance residential areas characterized by a mix of single family homes, duplexes, townhouses, small multi-unit buildings at somewhat higher densities than in RM-2, and neighborhood businesses where appropriate.

4. **RM-4 Mixed Housing Type Residential - 4 Zone.** The intent of the RM-4 Zone is to create, maintain, and enhance residential areas typically located on or near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings at somewhat higher densities than RM-3, and neighborhood businesses where appropriate.

C. Description of Combining Zone. This Chapter establishes land use regulations for the following combining zone:

1. **C Residential Commercial Combining Zone.** The intent of the C Combining Zone is to allow for expanded commercial uses, as well as new commercial uses within certain areas of the Mixed Housing Type Residential (RM) Zones. When an above primary

zone is combined with the C Combining Zone, the C Residential Commercial Combining Zone permitted uses supersede those of the primary zone.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.17.020 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.17.030 Permitted and conditionally permitted activities.

Table 17.17.01 lists the permitted, conditionally permitted, and prohibited activities in the RM Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.17.01: Permitted and Conditionally Permitted Activities

Activities	Primary Zones				Combining Zone*	Additional Regulations
	RM-1	**RM-2**	**RM-3**	**RM-4**	**C**	
Residential Activities						
Permanent	P	P	P	P	P	
Residential Care	P(L1)	P(L1)	P(L1)	P(L1)	P(L1)	17.103.010
Supportive Housing	P	P	P	P	P	
Transitional Housing	P	P	P	P	P	
Emergency Shelter	—	P(L2)	—	—	—	
Semi-Transient	—	—	—	—	—	
Bed and Breakfast	C	C	C	C	P	17.10.125
Civic Activities						
Essential Service	P	P	P	P	P	

Activities	Primary Zones				Combining Zone*	Additional Regulations
	RM-1	**RM-2**	**RM-3**	**RM-4**	**C**	
Limited Child-Care Activities	P	P	P	P	P	
Community Assembly	C	C	C	C	C	
Recreational Assembly	C	C	C	C	C	
Community Education	C	C	C	C	C	
Nonassembly Cultural	C	C	C	C	C	
Administrative	C	C	C	C	C	
Health Care	C	C	C	C	C	
Special Health Care	—	—	—	—	—	
Utility and Vehicular	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	
Commercial Activities						
General Food Sales	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	P(L5)	
Full Service Restaurants	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	P(L5)	
Limited Service Restaurant and Cafe	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	P(L5)	
Fast-Food Restaurant	—	—	—	—	—	
Convenience Market	—	—	—	—	—	
Alcoholic Beverage Sales	—(L6)	—(L6)	—(L6)	—(L6)	—(L6)	
Mechanical or Electronic Games	—	—	—	—	—	
Medical Service	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	P(L7)	
General Retail Sales	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	P(L4)(L5)	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	
Consumer Service	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	P(L7)	
Consultative and Financial Service	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	P(L5)	
Check Cashier and Check Cashing	—	—	—	—	—	
Consumer Cleaning and Repair Service	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	P(L5)	
Consumer Dry Cleaning Plant	—	—	—	—	—	
Group Assembly	—	—	—	—	C(L7)(L8)	

Activities	Primary Zones				Combining Zone*	Additional Regulations
	RM-1	**RM-2**	**RM-3**	**RM-4**	**C**	
Personal Instruction and Improvement Services	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	P(L5)	
Administrative	P(L3)(L4)(L9)	P(L3)(L4)(L9)	P(L3)(L4)(L9)	P(L3)(L4)(L9)	P(L5)	
Business, Communication, and Media Services	—	—	C(L3)(L4)	C(L3)(L4)	P(L5)	
Broadcasting and Recording Services Commercial Activities	—	—	—	—	—	
Research Service	—	—	—	—	—	
General Wholesale Sales	—	—	—	—	—	
Transient Habitation	—	—	—	—	—	
Building Material Sales	—	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	—	—	
Taxi and Light Fleet-Based Services	—	—	—	—	—	
Automotive Fee Parking	—	—	—	—	—	
Animal Boarding	—	—	—	—	—	
Animal Care	—	—	—	—	—	
Undertaking Service	—	—	—	—	—	
Industrial Activities (all)	—	—	—	—	—	
Agriculture and Extractive Activities						
Limited Agriculture	P(L10)	P(L10)	P(L10)	P(L10)	P(L10)	
Extensive Agriculture	C(L11)	C(L11)	C(L11)	C(L11)	C(L11)	
Plant Nursery	C	C	C	C	C	
Mining and Quarrying	—	—	—	—	—	
Accessory off-street parking serving prohibited activities	—	—	—	—	—	17.116.075
Activities that are listed as	C	C	C	C	C	17.102.110

Activities	Primary Zones				Combining Zone*	Additional Regulations
	RM-1	**RM-2**	**RM-3**	**RM-4**	**C**	
prohibited but are permitted or conditionally permitted on nearby lots in an adjacent zone						

Limitations on Table 17.17.01:

***** If a base zone (RM-1, RM-2, RM-3, or RM-4) also has the C Combining Zone, the C regulations supersede the base zone.

L1. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. Emergency Shelters are permitted by-right within that portion of the Martin Luther King Jr. Way corridor described in Section 17.103.015(A)(1) and subject to the development standards in Section 17.103.015(B).

L3. These activities may only be located in an existing ground floor of a Nonresidential Facility that was both built prior the effective date of this Chapter (April 14, 2011). For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. Also, these activities may only operate within the hours of 7:00 a.m. and 10:00 p.m.

L4. The overall outside dimensions of an existing Nonresidential Facility built prior to the effective date of this Chapter (April 14, 2011) devoted to this activity shall not be increased; and no open parking, loading, or production serving such activity shall be relocated or increased in size. For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. This regulation supersedes the applicable provisions in Chapter 17.114.

L5. These activities may only be located on the ground floor of an existing or new Nonresidential Facility and may only operate within the hours of 7:00 a.m. and 10:00 p.m.; a Conditional Use Permit (CUP) is required if the facility exceeds three thousand (3,000) square feet (see Chapter 17.134 for the CUP procedure).

L6. In the case of an existing, nonconforming Alcoholic Beverage Sales Activity, the total floor area, open areas, or outside building dimensions occupied by the establishment shall not be increased. This regulation supersedes the Nonconforming Activity [in] Subsection 17.114.080.A.1.

L7. These activities may only be located on the ground floor of an existing or new Nonresidential Facility and the activity may only operate within the hours of 7:00 a.m. and 10:00 p.m.

L8. Adult Entertainment Activities are prohibited.

L9. These activities may only be located in an existing ground floor of a Nonresidential Facility that was built prior to the effective date of this Chapter (April 15, 2011). For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. Also, these activities may only operate within the hours of 7:00 a.m. and 10:00 p.m.; a Conditional Use Permit (CUP) is required if the ground floor Nonresidential Facility exceeds one thousand five hundred (1,500) square feet (see Chapter 17.134 for the CUP procedure).

L10. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any on-site sales occur no more than two (2) times per week between the hours of 8:00 am and 9:00 pm in a temporary movable structure not exceeding two hundred (200) square feet in size; conditionally permitted if the activity is larger in either land area, or in sales area, frequency, or hours of operation (see Chapter 17.134 for the CUP procedure).

L11. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.17.040 Permitted and conditionally permitted facilities.

Table 17.17.02 lists the permitted, conditionally permitted, and prohibited facilities in the RM Zones. The descriptions of these facilities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the table.

"—" designates facilities that are prohibited.

Table 17.17.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones					Additional Regulations
	RM-1	**RM-2**	**RM-3**	**RM-4**	**C***	
Residential Facilities						
One-Family Dwelling	P	P	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	P	P	17.103.080
Two-Family Dwelling	C(L1)	P	P	P	Same as underlying zone	

Facilities	Zones					Additional Regulations
	RM-1	**RM-2**	**RM-3**	**RM-4**	**C***	
Multifamily Dwelling	—	C(L1)	C(L1)	P(L1)	Same as underlying zone	
Rooming House	—	—	—	—	—	
Mobile Home	—	—	—	—	—	
Nonresidential Facilities						
Enclosed Nonresidential	P	P	P	P	P	
Open Nonresidential	P	P	P	P	C(L5)	
Sidewalk Cafe	P(L2)	P(L2)	P(L2)	P(L2)	P(L2)	17.103.090
Drive-In Nonresidential	—	—	—	—	—	
Drive-Through Nonresidential	—	—	—	—	—	
Telecommunications Facilities						
Micro Telecommunications	C	C	C	C	C	17.128
Mini Telecommunications	C	C	C	C	C	17.128
Macro Telecommunications	C	C	C	C	C	17.128
Monopole Telecommunications	C	C	C	C	C	17.128
Tower Telecommunications	—	—	—	—	—	17.128
Sign Facilities						
Residential Signs	P	P	P	P	P	17.104
Special Signs	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	17.104
Realty Signs	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	17.104
Business Signs	P(L3)	P(L3)	P(L3)	P(L3)	P(L4)	17.104
Advertising Signs	—	—	—	—	—	17.104

Limitations on Table 17.17.02:

***** If a base zone (RM-1, RM-2, RM-3, or RM-4) also has the C Combining Zone, the C regulations supersede the base zone.

L1. See Table 17.17.03, Property Development Standards, for additional regulations on this density.

L2. Sidewalk cafes are allowed only as an accessory facility to an approved Full Service Restaurant or Limited Service Restaurant and Cafe. The sidewalk cafe may only operate within the hours of 7:00 a.m. to 10:00 p.m. No more than three (3) tables and no more than ten (10) chairs or seats are allowed by right. If more tables or chairs are requested, a Conditional Use Permit (CUP) is required (see Chapter 17.134 for the CUP procedure). See Section 17.103.090 for other regulations regarding Sidewalk Cafes; however, the regulations in this Section supersede any contradicting regulations in Section 17.103.090.

L3. Business Signs are only allowed on existing Nonresidential Facilities built prior to the effective date of this Chapter (April 14, 2011); otherwise Chapter 17.104 applies. For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. Also, the maximum aggregate area of display surface of all Business, Civic, and Residential Signs on any one lot shall be 0.5 square foot for each one foot of lot frontage in the case of an interior lot, or 0.25 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed 100 square feet on any one property. See Chapter 17.104 for other regulations regarding Business Signs; however, the regulations in this Section supersede any contradicting regulations in Chapter 17.104.

L4. Business Signs are allowed in the C Combining Zone, otherwise Section 17.104 applies. The maximum aggregate area of display surface of all Business, Civic, and Residential Signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed one hundred (100) square feet on any one property. See Chapter 17.104 for other regulations regarding Business Signs; however, the regulations in this Section supersede any contradicting regulations in 17.104.

L5. For RM Zones with the C Combining Zone, no Conditional Use Permit (CUP) is required for Open Nonresidential Facilities to accommodate Civic Activities, Limited Agriculture, seasonal sales, or special events.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.17.050 Property development standards.

A. Zone Specific Standards. Table 17.17.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified zone.

Table 17.17.03: Property Development Standards

Development Standards	Zones				Additional Regulations
	RM-1	**RM-2**	**RM-3**	**RM-4**	
Minimum Lot Dimensions					
Lot Width mean	45 ft.	25 ft. / 45 ft.	25 ft.	25 ft.	1
Frontage	25 ft.	25 ft.	25 ft.	25 ft.	1

Development Standards	Zones				Additional Regulations
	RM-1	**RM-2**	**RM-3**	**RM-4**	
Lot area	5,000 sf.	2,500 sf. / 4,000 sf. / 5,000 sf.	4,000 sf.	4,000 sf.	1
Maximum Density					
Permitted density	1 primary unit per lot	1 primary unit on lots less than 4,000 sf.; 2 units on lots 4,000 sf. or greater	1 primary unit on lots less than 4,000 sf.; 2 units on lots 4,000 sf. or greater	1 primary unit on lots less than 4,000 sf.; For 1 — 4 units, 1 unit per 1,100 sf. of lot area; only on lots 4,000 sf. or greater	2
Conditionally permitted density (only for lots 4,000 sf or greater)	2 units	For 3 or more units, 1 unit per 2,500 sf of lot area	For 3 or more units, 1 unit per 1,500 sf of lot area	For 5 or more units, 1 unit per 1,100 sf of lot area;	2, 3
Minimum Setbacks for Lots Equal to or Greater than Four Thousand (4,000) Square Feet					
Minimum front (≤20% street-to-setback gradient)	20 ft.	20 ft.	15 ft.	15 ft.	4, 5
Minimum front (>20% street-to-setback gradient)	5 ft.	5 ft.	5 ft.	5 ft.	4, 5, 6
Minimum interior side	5 ft.	3 ft. / 4 ft. / 5 ft.	4 ft.	4 ft.	1, 7, 8, 9
Minimum street side	5 ft.	3 ft. / 4 ft. / 5 ft.	4 ft.	4 ft.	1, 4, 7, 8, 10
Rear	15 ft.	15 ft.	15 ft.	15 ft.	11
Reduced Setbacks for Smaller Lots (Less than Four Thousand (4,000)Square Feet)	See Table 17.17.04 for reduced setbacks for smaller lots				
Floor Area Ratio (FAR) and Lot Coverage for 1 or 2 Units	See Table 17.17.05 for FAR and maximum lot coverage for 1 or 2 units				
Maximum Lot Coverage for 3 or More Units	N/A	40%	50%	N/A	
Height Regulations for All Lots with a Footprint Slope of <20%					
Maximum wall height	25 ft.	25 ft.	30 ft.	35 ft.	12, 13, 14

Development Standards	Zones				Additional Regulations
	RM-1	**RM-2**	**RM-3**	**RM-4**	
primary building					
Maximum pitched roof height primary building	30 ft.	30 ft.	30 ft.	35 ft.	12, 13, 14
Maximum height for accessory structures	15 ft.	15 ft.	15 ft.	15 ft.	12
Height Regulations for all Lots with a Footprint Slope of > 20%	See Table 17.17.06 for Height regulations for all lots with a footprint slope of >20%				
Maximum Wall Length Before Articulation Required for all Lots with a Footprint Slope of > 20%	40 ft.	40 ft.	40 ft.	40 ft.	15
Minimum Parking					
Minimum parking spaces required per regular unit	1.5	1 / 1.5	1	1	16, 17
Additional parking spaces required for Secondary Unit	1	1	1	1	16, 18
Minimum Parking Spaces for Nonresidential Activities	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking				
Minimum Open Space					
Group open space per regular unit	300 sf.	300 sf.	200 sf.	175 sf.	19
Group open space per regular unit when private open space substituted	100 sf.	100 sf.	85 sf.	70 sf.	19
Courtyard Regulations	See Section 17.108.120				

Additional Regulations for Table 17.17.03:

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, width mean and street frontage regulations. For the RM-2 Zone in the West Oakland District only (defined for the purposes of this Chapter as all areas between Interstate 980 to the east, Interstate 880 to the south and west, and Interstate 580 to the north), the minimum lot width mean shall be reduced to twenty-five (25) feet and the minimum lot area shall be reduced to four thousand (4,000) square feet.

a. Also for the RM-2 Zone in the West Oakland District only, a conditional use permit to further reduce the minimum lot area from four thousand (4,000) square feet (as specific above) to two thousand five hundred (2,500) square feet and the minimum interior side and

street side setbacks from four (4) feet (as specified in additional regulation 8. below) to three (3) feet may be granted upon determination that the proposal conforms to the conditional use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, and to the following additional criteria:

i. Excluding the subject parcel, the prevalent size of existing lots in the surrounding block is three thousand (3,000) square feet or less, and the prevalent frontage width along the same block face is thirty-five (35) feet or less.

2. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one (1) Primary Unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

3. A Conditional Use Permit (CUP) for density may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the CUP procedure in Chapter 17.134. In addition, the CUP in the RM-1 and RM-2 Zones may only be granted upon determination that the proposal conforms to the following additional use permit criteria. In the RM-3 Zone, this CUP may only be granted upon determination that the proposal conforms to additional criteria a., d., and e.

a. That the proposed development will not adversely affect adjoining property, nor the surrounding neighborhood, with consideration to be given to density; to the availability of neighborhood facilities and play space to the generation of traffic and the capacity of surrounding streets; and to all other similar, relevant factors;

b. That the site design and landscaping and the scale, height, length and width, bulk, coverage, and exterior treatment of structures are in harmony with neighborhood character and with facilities on nearby lots;

c. That the shape and siting of the facilities are such as to minimize blocking of views and direct sunlight from nearby lots and from other Residential Facilities in the surrounding neighborhood;

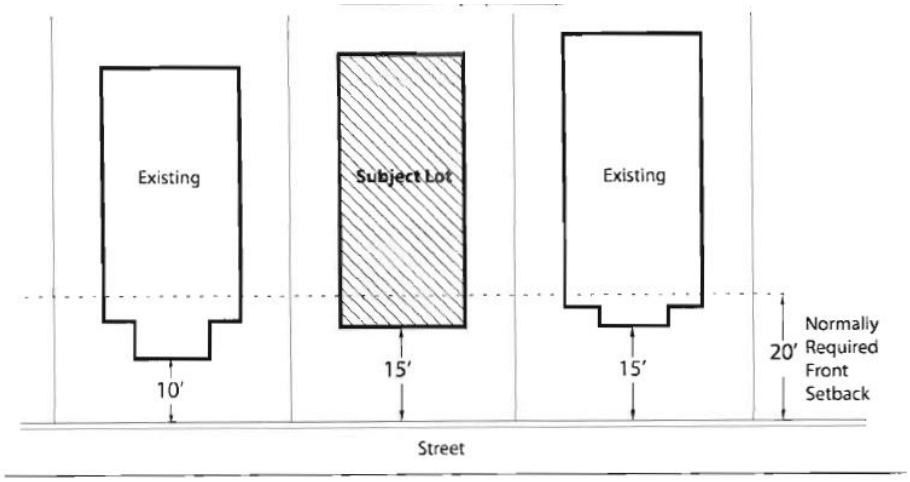
d. That the design and site planning of the buildings, open areas, parking and service areas, and other facilities provide a convenient, attractive, and functional living environment; and that paths, stairways, accessways, and corridors are designed to minimize privacy impacts;

e. That lot shape, size, and dimensions allow a development which will provide satisfactory internal living conditions without adversely affecting the privacy, safety, or residential amenity of adjacent residences.

4. If adjacent lots abutting the side lot lines of the subject lot both contain principal Residential Facilities that have front setbacks with a depth of less than twenty (20) feet or fifteen (15) feet respectively, the minimum front setback may be reduced for buildings and other structures on the subject lot up to a line parallel to the front lot line and extended from the most forward projection of the principal Residential Facility on the adjacent lots having the deeper front setback depth, provided such projection is enclosed, has a wall height of at least eight (8) feet, and has a width of at least five (5) feet. In the case of a corner lot or lot that has a vacant parcel next to it, this same principal may apply if the two (2) lots adjacent to the corner lot or lot along its front lot line have less than a twenty (20) feet or fifteen (15) feet, respectively, front setback

(see Illustration for Table 17.17.03 [Additional Regulation 4], below). Also, see Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.17.03 [Additional Regulation 4]
*For illustration purposes only



5. On lots with only Residential Facilities, paved surfaces within required street-fronting yards, and any unimproved rights-of-way of adjacent streets, shall be limited to fifty percent (50%) on interior lots and thirty percent (30%) on corner lots. Exceptions: The maximum percentages of paved surfaces specified in this additional regulation may be exceeded within unimproved rights-of-way in the following cases upon issuance of a private construction of public improvements (P-job) permit or if undertaken directly by the City or by a private contractor under contract to the City:

a. Roadway construction or widening;

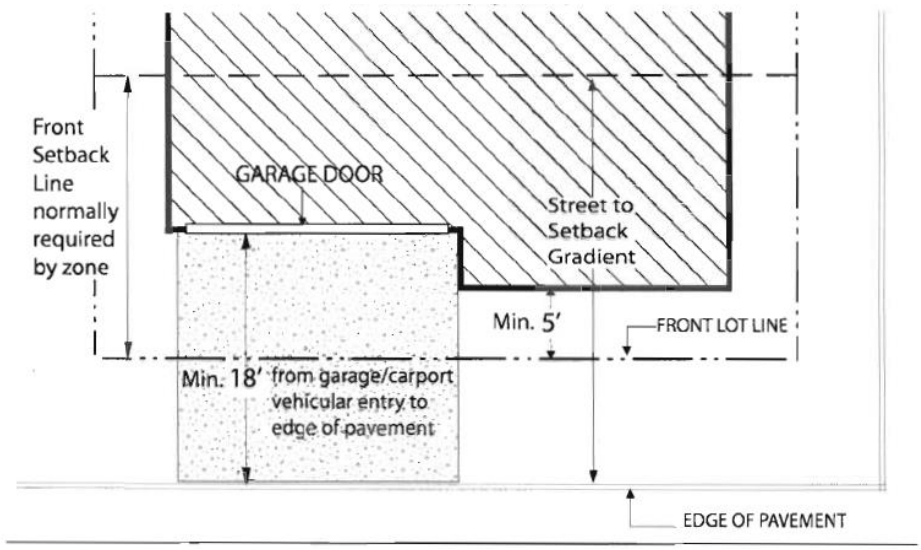
b. Sidewalk construction or widening; and

c. Any work pursuant to an approved final map, parcel map or final development plan pursuant to a Planned Unit Development (PUD) permit.

For purposes of this additional regulation, an unimproved right-of-way is the portion of a street or alley right-of-way that is not paved.

6. In all Residential Zones, the minimum front setback depth otherwise required by the applicable individual zone regulations shall be reduced to five (5) feet on any lot with a street-to-setback gradient that exceeds twenty percent (20%), provided, however, that the distance from the edge of the pavement to a garage or carport elevation containing one or more vehicular entries shall be at least eighteen (18) feet (see Illustration for Table 17.17.03 [Additional Regulation 6], below). See Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.17.03 [Additional Regulation 6
*for illustration purposes only



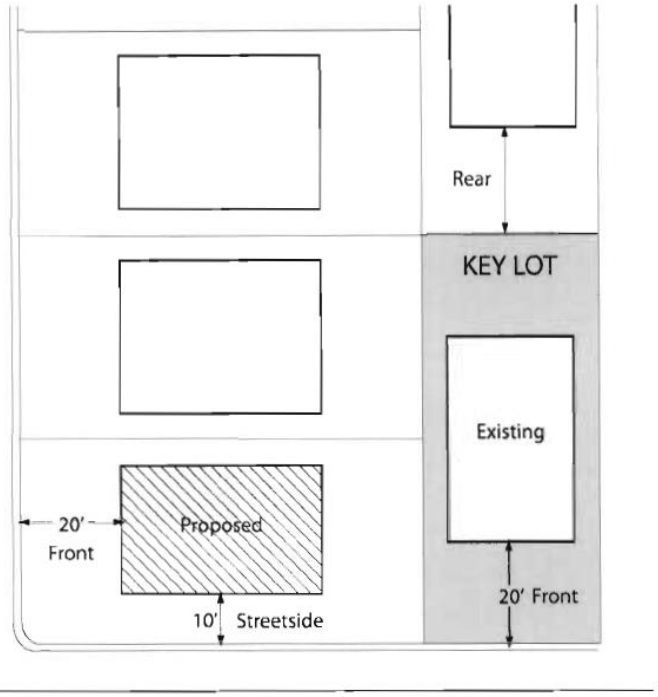
7. No front or side setbacks are required for commercial facilities in the C Combining Zone except wherever an interior side lot line of any lot located in the C Combining Zone abuts an interior side lot line of any lot that is not located in a C Combining Zone or Commercial Zone, there shall be provided on the former lot, along the abutting portion of its side lot line, a side yard with a minimum width of five (5) feet. (Where it abuts a rear lot line, no yard is required). Section 17.108.080 still applies. Also, see Section 17.108.130 for allowed projections into setbacks.

8. For the RM-2 Zone in the West Oakland District only (defined for the purposes of this Chapter as all areas between Interstate 980 to the east, Interstate 880 to the south and west, and Interstate 580 to the north), the minimum interior side and street side setbacks for lots equal to or greater than four thousand (4,000) square feet shall be reduced to four (4) feet. See additional regulation 1. above for further reduced interior side and street side setbacks for the RM-2 Zone in the West Oakland District only; and Table 17.17.04 for general reduced setbacks for smaller lots. See also Section 17.108.130 for allowed projections into setbacks.

9. See Section 17.108.080 for the required interior side and rear setbacks on a lot containing two (2) or more living units and opposite a legally-required living room window.

10. In all Residential Zones, on every corner lot which abuts to the rear a key lot which is in a Residential Zone, there shall be provided on the street side of such corner lot a side setback with a minimum width equal to one-half (½) of the minimum front setback depth required on the key lot and no less than the minimum side setback width required along an interior side lot line of the corner lot. However, such side setback shall not be required to exceed five (5) feet in width if it would reduce to less than twenty-five (25) feet the buildable width of any corner lot. Such setback shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. This does not apply to lots within the C Combining Zone (see Illustration for Table 17.17.03 [Additional Regulation 10], below). See also Subsection 17.110.040.C for special controls on location of detached accessory buildings on such corner lots.

Illustration Table 17.17.03 [Additional Regulation 10]
*for illustration purposes only



11. Wherever a rear lot line abuts an alley, one-half (½) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback depth actually on the lot itself shall not be reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

12. See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

13. In the RM-1 and RM-2 Zones, if at least sixty percent (60%) of the buildings in the immediate context are no more than one (1) story in height, the maximum wall height shall be fifteen (15) feet within the front twelve (12) feet of buildable area. The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street; however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any approval of any variance, conditional use permit, design review, determination of exemption from design review, or other special zoning approval or, if no special zoning approval is required, part of any Planning Department approval of a building permit application.

14. In the RM-2 Zone, the maximum pitched roof height may be increased to thirty-five (35) feet and maximum wall height may increase to thirty (30) feet upon the granting of a Conditional Use Permit (CUP) (see Chapter 17.134 for the CUP procedure). An increased wall height shall only be permitted in conjunction with a project with a pitched roof (a "pitched roof," as used in this Section, is defined as having a vertical to horizontal ratio of a minimum of four in twelve (4:12) slope). In addition to the criteria contained in Section 17.136.050, any proposed increase in roof height must also meet the following use permit criteria:

a. The additional pitched roof height is required to accommodate a roof form that is consistent with the historic context in the neighborhood; and

b. In conjunction with an increased pitched roof height, the additional wall height is required to accommodate a wall height that is consistent with the historic context in the neighborhood.

15. If the total wall length within ten (10) feet of the side lot line exceeds forty (40) feet, then the building wall shall be articulated by at least one (1) section of additional setback. See design guidelines for more specific bulk regulations and context standards.

16. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117. Also, additional parking standards apply within the S-11 and S-12 Zones, as prescribed in Chapters 17.92 and 17.94.

17. In the RM-2 Zone, when the lot is less than four thousand (4,000) square feet in size or forty-five (45) feet in width, only one (1) parking space is required per unit. For the RM-2 Zone in the West Oakland District only (defined for the purposes of this Chapter as all areas between Interstate 980 to the east, Interstate 880 to the south and west, and Interstate 580 to the north), the minimum parking requirement shall be only one (1) space per unit regardless of lot size or width.

18. Unless otherwise specified in Section 17.103.080, one (1) parking space for the Secondary Unit is required in addition to any required parking spaces for the Primary Unit. Additional regulations that apply to Secondary Units are provided in Section 17.103.080.

19. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling unit. All usable open space shall meet the standards contained in Chapter 17.126.

B. **Reduced Setbacks for Smaller Lots.** Table 17.17.04 below prescribes reduced setback standards for lots less than four thousand (4,000) square feet. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

Table 17.17.04 Reduced Setbacks for Smaller Lots (Less than Four Thousand (4,000) Square Feet)

Regulation	**Lot Size**		**Additional Regulations**
	≤ 4,000 sf. or ≤ 40 feet wide	**≤ 3,000 sf. or ≤ 35 feet wide**	
Minimum Setbacks			
Minimum interior side	4 ft.	3 ft.	1
Minimum street side	4 ft.	3 ft.	1
Rear	15 ft.	15 ft.	1

Additional Regulations for Table 17.17.04:

1. See Section 17.108.130 for allowed projections into setbacks.

C. **Floor Area Ratio (FAR) and Lot Coverage for One- and Two-Family Dwelling Units Only.** Table 17.17.05 below prescribes FAR and lot coverage standards associated with lot sizes. The numbers in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

Table 17.17.05 Floor Area Ratio (FAR) and Lot Coverage Regulations for One- and Two-Family Dwelling Units Only

Regulation	Lot Size in Square Feet					Additional Regulations
	<5,000	≥5,000 and <12,000	≥12,000 and <25,000	≥25,000 and <43,560	≥43,560	
Maximum FAR for Lots with a Footprint Slope >20%	0.55	0.50	0.45	0.30	0.20	1, 2
Maximum Lot Coverage (%)	40%	40%	30%	20%	15%	2, 3

Additional Regulations for Table 17.17.05:

1. Floor Area Ratio (FAR) only applies to lots that have a footprint slope of greater than twenty percent (20%). Lots less than five thousand (5,000) square feet may have a dwelling with a minimum of two thousand (2,000) square feet of floor area, regardless of FAR listed.

2. Regulation does not apply in the C Combining Zone.

3. Lots less than five thousand (5,000) square feet may have a lot coverage of up to two thousand (2,000) square feet regardless of lot coverage percentage (%) listed.

D. **Height.** Table 17.17.06 below prescribes height standards associated with different sloped lots. The numbers in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the regulation is not applicable to the specified footprint slope category.

Table 17.17.06 Height Regulations for all Lots With a Footprint Slope of >20%

Regulation	Downslope Lot Height Regulations With a Footprint Slope of:			Upslope Lot Height Regulations With a Footprint Slope of:	Additional Regulations
	> 20% and ≤ 40%	> 40% and ≤60%	> 60%	> 20%	
Maximum Height for Detached Accessory Structures	15 ft.	15 ft.	15 ft.	15 ft.	1
Maximum Wall Height Primary Building	32 ft.	34 ft.	36 ft.	32 ft.	1, 2
Maximum Wall Height Primary Building with a CUP	36 ft.	38 ft.	40 ft.	35 ft.	1

Regulation	Downslope Lot Height Regulations With a Footprint Slope of:			Upslope Lot Height Regulations With a Footprint Slope of:	Additional Regulations
	> 20% and ≤ 40%	> 40% and ≤60%	> 60%	> 20%	
Maximum Pitched Roof Height Primary Building	36 ft.	38 ft.	40 ft.	35 ft.	1, 2
Maximum Height Above Edge of Payment	18 ft.	18 ft.	18 ft.	N/A	1
Maximum Height Above the Ground Elevation at the Rear Setback Line	N/A	N/A	N/A	24 ft.	1
Maximum Height from Finished or Existing Grade (whichever is lower) Within 20' of the Front Property Line	N/A	N/A	N/A	24 ft.	1, 3

Additional Regulations for Table 17.17.06:

1. See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

2. On a downslope lot greater than forty percent (40%) footprint slope, the rear wall of an attached garage or carport may exceed the wall height and roof height by five (5) feet, but may not exceed eighteen (18) feet above ground elevation at edge of pavement, if the garage or carport conforms with all of the following criteria:

a. Maximum width is twenty-two (22) feet and maximum depth is twenty (20) feet; and

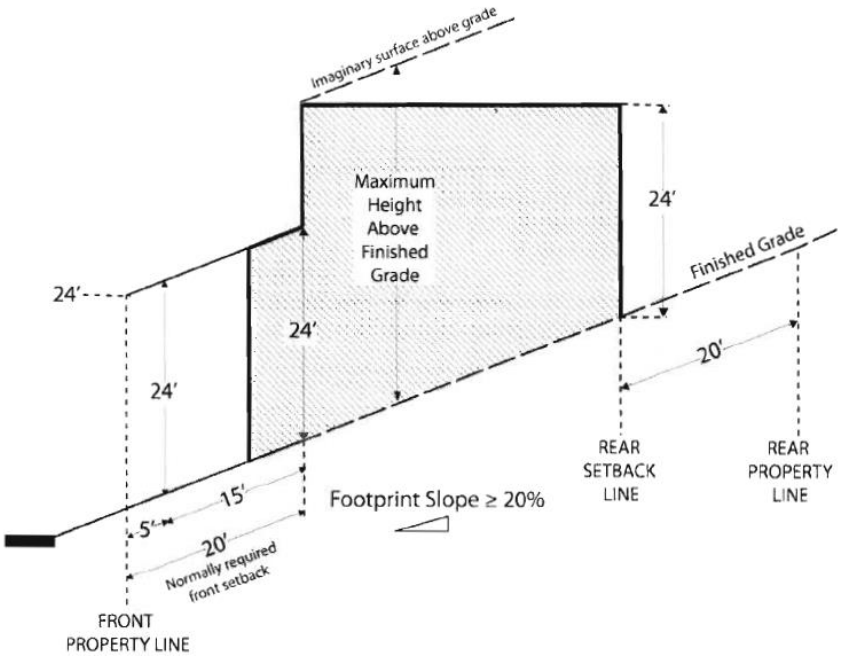
b. Garage or carport floor is at the same level as the edge of the street pavement resulting from the project at the center point of the driveway entrance or is at a lower level; and

c. Maximum height above the garage or carport floor is ten (10) feet for walls to the top of the plate or flat roof, and twelve (12) feet for pitched roofs (see Illustration for Table 17.17.06 [Additional Regulation 2], below).

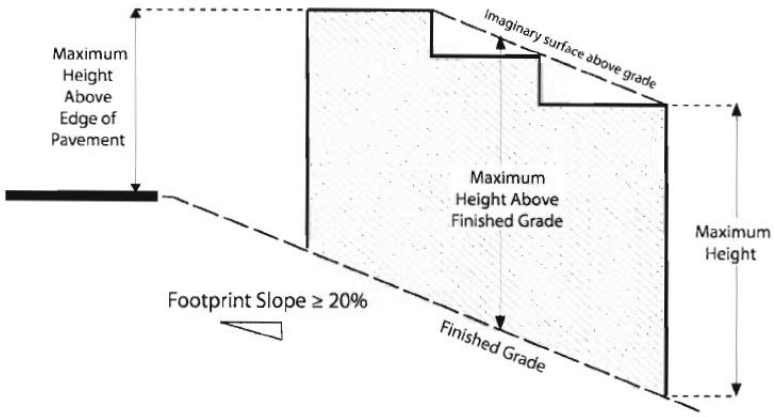
3. The building height is measured from finished or existing grade, whichever is lower.

Illustrations for Table 17.17.06 [Additional Regulation 2]
*for illustration purposes only

Upslope



Downslope



(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.17.060 Special regulations for Mini-Lot and Planned Unit Developments.

A. **Mini-Lot Developments.** In Mini-Lot Developments, certain regulations that otherwise apply to individual lots in the RM Zones may be waived or modified when and as prescribed in Chapter 17.142.

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 RM Zones, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.17.070 Other zoning provisions.

A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112. See Section 17.112.060 for home occupation regulations specific to the West Oakland Specific Plan Area.

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

C. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.104, 17.106, and 17.108 shall apply in the RM Zones.

D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in RM Zones.

E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the RM Zones.

F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

Chapter 17.18 RESERVED [7]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.18, §§ 17.18.010—17.18.180 in its entirety, which pertained to R-35 special one-family residential zone regulations and derived from the prior planning code, §§ 3550, 3552—3556, 3563—3566, 3569, 3570—3574; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.60, 5.07, 5.09, 5.10, 5.15, adopted 1996; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12199, §§ 4F, 5D, adopted 2000; Ord. No. 12376, § 3, adopted 2001; Ord. No. 12501, §§ 22—24, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.19 RU URBAN RESIDENTIAL ZONES REGULATIONS

Sections:

17.19.010 Title, intent, and description.

17.19.020 Required design review process.

17.19.030 Permitted and conditionally permitted activities.

17.19.040 Permitted and conditionally permitted facilities.

17.19.050 Property development standards.

17.19.060 Special regulations for mini-lot and Planned Unit Developments.

17.19.070 Other zoning provisions.

17.19.010 Title, intent, and description.

A. Title and Intent. The provisions of this Chapter shall be known as the RU Urban Residential Regulations. The intent of the Urban Residential (RU) Zones is to create, maintain, and enhance areas of the City that are appropriate for multi-unit, mid-rise or high-rise residential structures in locations with good access to transportation and other services.

B. Description of Zones. This Chapter establishes land use regulations for the following five (5) zones:

1. **RU-1 Urban Residential - 1 Zone.** The intent of the RU-1 Zone is to create, maintain, and enhance areas of the City that are appropriate for multi-unit, low-rise residential structures and neighborhood businesses where appropriate in locations with good access to transportation and other services.

2. **RU-2 Urban Residential - 2 Zone.** The intent of the RU-2 Zone is to create, maintain, and enhance areas of the City that are appropriate for multi-unit, low-rise or mid-rise residential structures and neighborhood businesses where appropriate in locations with good access to transportation and other services.

3. **RU-3 Urban Residential - 3 Zone.** The intent of the RU-3 Zone is to create, maintain, and enhance areas of the City that are appropriate for multi-unit, low-rise or mid-rise residential structures at somewhat higher densities than RU-2, and neighborhood businesses where appropriate in locations with good access to transportation and other services.

4. **RU-4 Urban Residential - 4 Zone.** The intent of the RU-4 Zone is to create, maintain, and enhance areas of the City that are appropriate for multi-unit, mid-rise, and high rise residential structures on the City's major corridors.

5. **RU-5 Urban Residential - 5 Zone.** The intent of the RU-5 Zone is to create, maintain, and enhance areas of the City that are appropriate for multi-unit, mid-rise, and high rise residential structures and ground floor neighborhood businesses on the City's major corridors.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.19.020 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.19.030 Permitted and conditionally permitted activities.

Table 17.19.01 lists the permitted, conditionally permitted, and prohibited activities in the RU Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.19.01: Permitted and Conditionally Permitted Activities

Activities	Zones					Additional Regulations
	RU-1	**RU-2**	**RU-3**	**RU-4**	**RU-5**	
Residential Activities						
Permanent	P	P	P	P	P	
Residential Care	P(L1)	P(L1)	P(L1)	P(L1)	P(L1)	17.103.010
Supportive Housing	P	P	P	P	P	
Transitional Housing	P	P	P	P	P	
Emergency Shelter	—	C(L1)	P(L2)	P(L2)	P(L2)	17.103.010
Semi-Transient	—	—	—	C(L1)	C(L1)	
Bed and Breakfast	C	C	C	C	C	17.10.125
Civic Activities						
Essential Service	P	P	P	P	P	
Limited Child-Care Activities	P	P	P	P	P	
Community Assembly	C	C	C	C	C	
Recreational Assembly	P	P	P	P	P	

Activities	Zones					Additional Regulations
	RU-1	**RU-2**	**RU-3**	**RU-4**	**RU-5**	
Community Education	C	C	C	P(L3)	P(L3)	
Nonassembly Cultural	P(L3)	P(L3)	P(L3)	P(L3)	P(L3)	
Administrative	C	C	C	P(L3)(L4)	P(L3)(L5)	
Health Care	C	C	C	P(L3)(L4)	P(L3)(L5)	
Special Health Care	—	—	—	—	—	
Utility and Vehicular	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	
Commercial Activities						
General Food Sales	C(L6)(L7)	C(L6)(L7)	C(L6)(L7)	P(L3)(L4)	P(L3)(L5)	
Full Service Restaurants	C(L6)(L7)	C(L6)(L7)	C(L6)(L7)	P(L3)(L4)	P(L3)(L5)	
Limited Service Restaurant and Cafe	C(L6)(L7)	C(L6)(L7)	C(L6)(L7)	P(L3)(L4)	P(L3)(L5)	
Fast-Food Restaurant	—	—	—	—	C(L5)	17.103.030
Convenience Market	—	—	—	—	C(L5)	17.103.030
Alcoholic Beverage Sales	—(L8)	—(L8)	—(L8)	C(L4)	C(L5)	17.103.030 and 17.114.030
Mechanical or Electronic Games	—	—	—	—	C(L5)	
Medical Service	P(L7)(L9)	P(L7)(L9)	P(L7)(L9)	P(L3)(L4)	P(L3)(L5)	
General Retail Sales	P(L7)(L9)	P(L7)(L9)	P(L7)(L9)	P(L3)(L4)	P(L3)(L5)	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	
Consumer Service	C(L6)(L7)(L10)	P(L7)(L9)(L10)	P(L7)(L9)(L10)	P(L3)(L4)(L10)	P(L3)(L5)(L10)	
Consultative and Financial Service	P(L7)(L9)	P(L7)(L9)	P(L7)(L9)	P(L3)(L4)	P(L3)(L5)	
Check Cashier and Check Cashing	—	—	—	—	—	
Consumer Cleaning and Repair Service	P(L7)(L9)	P(L7)(L9)	P(L7)(L9)	P(L3)(L4)	P(L3)(L5)	
Consumer Dry Cleaning Plant	—	—	—	C(L4)	C(L5)	
Group Assembly	—	—	C(L6)(L7)(L11)	C(L4)(L11)	C(L5)(L11)	

Activities	Zones					Additional Regulations
	RU-1	**RU-2**	**RU-3**	**RU-4**	**RU-5**	
Personal Instruction and Improvement Services	P(L7)(L9)	P(L7)(L9)	P(L7)(L9)	P(L3)(L4)	P(L3)(L5)	
Administrative	P(L7)(L12)	P(L7)(L12)	P(L7)(L12)	P(L3)(L4)	P(L3)(L5)	
Business, Communication, and Media Services	P(L7)(L9)	P(L7)(L9)	P(L7)(L9)	P(L2)(L4)	P(L3)(L5)	
Broadcasting and Recording Services Commercial Activities	—	—	—	P(L3)(L4)	P(L3)(L5)	
Research Service	—	—	—	P(L3)(L4)	P(L3)(L5)	
General Wholesale Sales	—	—	—	—	—	
Transient Habitation	—	—	—	—	—	
Building Material Sales	—	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	—	—	
Taxi and Light Fleet-Based Services	—	—	—	—	—	
Automotive Fee Parking	—	—	—	—	—	
Animal Boarding	—	—	—	—	—	
Animal Care	—	—	—	—	—	
Undertaking Service	—	—	—	—	—	
Industrial Activities (all)	—	—	—	—	—	
Agriculture and Extractive Activities						
Limited Agriculture	P(L13)	P(L13)	P(L13)	P(L13)	P(L13)	
Extensive Agriculture	C(L14)	C(L14)	C(L14)	C(L14)	C(L14)	
Plant Nursery	C	C	C	C	C	
Mining and Quarrying	—	—	—	—	—	
Accessory off-street parking serving prohibited activities	C	C	C	C	C	17.116.075

Activities	Zones					Additional Regulations
	RU-1	**RU-2**	**RU-3**	**RU-4**	**RU-5**	
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone	C	C	C	C	C	17.102.110

Limitations on Table 17.19.01:

L1. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. Emergency Shelters are permitted by-right within those portions of Martin Luther King Jr. Way, San Pablo Avenue, and Macarthur Boulevard corridors described in Section 17.103.015(A)(1)(4)(7) respectively and subject to the development standards in Section 17.103.015(B); permitted upon the granting of a Conditional Use Permit elsewhere in the zone subject to Limitation L1 above.

L3. The total floor area devoted to these activities on the ground floor by any single establishment may only exceed five-thousand (5,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L4. In the RU-4 Zone, these activities may only be located either on the ground floor of a corner parcel or in an existing Nonresidential Facility that was built prior to the effective date of this Chapter (April 14, 2011). For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit.

L5. In the RU-5 Zone, these activities may only be located either on the ground floor of a facility constructed after the effective date of this Chapter (April 14, 2011) or in an existing Nonresidential Facility that was built prior to the effective date of this Chapter (April 14, 2011). For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit.

L6. In the RU-1, RU-2, and RU-3 Zones, these activities may only be located in an existing ground floor of a Nonresidential Facility that was built prior to the effective date of this Chapter (April 14, 2011). For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. Also, these activities may only operate within the hours of 7:00 a.m. and 10:00 p.m.

L7. In the RU-1, RU-2, and RU-3 Zones, the overall outside dimensions of a Nonresidential Facility built prior to the effective date of this Chapter (April 14, 2011) devoted to this activity shall not be increased and no open parking, loading, or production serving such activity shall be relocated or increased in size. For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. This regulation supersedes the applicable provisions in Chapter 17.114.

L8. In the case of an existing, nonconforming Alcoholic Beverage Sales Activity, the total floor area, open areas, or outside building dimensions occupied by the establishment shall not be increased. This regulation supersedes the Nonconforming activity Section 17.114.080(A)1.

L9. These activities may only be located in an existing ground floor of a Nonresidential Facility that was built prior to the effective date of this Chapter (April 14, 2011). For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. These activities may only operate within the hours of 7:00 a.m. and 10:00 p.m.; a Conditional Use Permit (CUP) is required if the facility exceeds three thousand (3,000) square feet (see Chapter 17.134 for the CUP procedure).

L10. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L11. Adult Entertainment Activities are prohibited.

L12. These activities may only be located in an existing ground floor of a Nonresidential Facility that was built prior to the effective date of this Chapter (April 14, 2011). These activities may only operate within the hours of 7:00 a.m. and 10:00 p.m.; a Conditional Use Permit is required if the facility exceeds one thousand five hundred (1,500) square feet (see Chapter 17.134 for the CUP procedure).

L13. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any on-site sales occur no more than two (2) times per week between the hours of 8:00 am and 9:00 pm in a temporary movable structure not exceeding two hundred (200) square feet in size; conditionally permitted if the activity is larger in either land area, or in sales area, frequency, or hours of operation (see Chapter 17.134 for the CUP procedure).

L14. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.19.040 Permitted and conditionally permitted facilities.

Table 17.19.02 lists the permitted, conditionally permitted, and prohibited facilities in the RU Zones. The descriptions of these facilities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the table.

"—" designates facilities that are prohibited.

Table 17.19.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones					Additional Regulations
	RU-1	**RU-2**	**RU-3**	**RU-4**	**RU-5**	
Residential Facilities						
One-Family Dwelling	P	P	P	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	P	P	P	—(L1)	—(L1)	17.103.080
Two-Family Dwelling	P	P	P	P	P	
Multifamily Dwelling	P	P	P	P	P	
Rooming House	—	C	C	P	P	
Mobile Home	—	—	—	—	—	
Nonresidential Facilities						
Enclosed Nonresidential	P	P	P	P(L2)	P(L3)	
Open Nonresidential	P	P	P	P	P	
Sidewalk Cafe	P(L4)	P(L4)	P(L4)	P	P	17.103.090
Drive-In Nonresidential	—	—	—	—	—	
Drive-Through Nonresidential	—	—	—	—	—	
Telecommunications Facilities						
Micro Telecommunications	C	C	C	C	C	17.128
Mini Telecommunications	C	C	C	C	C	17.128
Macro Telecommunications	C	C	C	C	C	17.128
Monopole Telecommunications	C	C	C	C	C	17.128
Tower Telecommunications	—	—	—	—	—	17.128
Sign Facilities						
Residential Signs	P	P	P	P	P	17.104
Special Signs	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	17.104
Realty Signs	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	17.104
Business Signs	P(L5)	P(L5)	P(L5)	P	P	17.104
Advertising Signs	—	—	—	—	—	17.104

Limitations on Table 17.19.02:

L1. See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit may be permitted when there is no more than one (1) existing Primary Unit on a lot, subject to the provisions of Section 17.103.080.

L2. Construction of Nonresidential Facilities to be used for a Commercial Activity is only permitted on the ground floor of corner lots. It is not permitted either on an interior lot or above the ground floor.

L3. Construction of Nonresidential Facilities to be used for a Commercial Activity is only permitted on the ground floor.

L4. Sidewalk cafes are allowed only as an accessory facility to an approved Full Service Restaurant or Limited Service Restaurant and Cafe. The sidewalk cafe may only operate within the hours of 7:00 a.m. to 10:00 p.m. No more than three (3) tables and no more than ten (10) chairs or seats are allowed by right. If more tables or chairs are requested, a Conditional Use Permit (CUP) is required (see Chapter 17.134 for the CUP procedure). See Section 17.103.090 for other regulations regarding Sidewalk Cafes; however, the regulations in this Section supersede any contradicting regulations in Section 17.103.090.

L5. Business Signs are only allowed on existing Nonresidential Facilities built prior to the effective date of this Chapter (April 14, 2011); otherwise Chapter 17.104 applies. For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. The maximum aggregate area of display surface of all Business, Civic, and Residential Signs on any one lot shall be 0.5 square foot for each one foot of lot frontage in the case of an interior lot, or 0.25 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed one hundred (100) square feet on any one property. See Chapter 17.104 for other regulations regarding Business Signs; however, the regulations in this Section supersede any contradicting regulations in Chapter 17.104.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.19.050 Property development standards.

A. Zone Specific Standards. Table 17.19.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates a standard is not applicable to the specified zone.

Table 17.19.03: Property Development Standards

Development Standards	Zones					Additional Regulations
	RU-1	**RU-2**	**RU-3**	**RU-4**	**RU-5**	
Minimum Lot Dimensions						
Lot Width mean	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	1
Frontage	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	1
Lot area	4,000 sf.	4,000 sf.	4,000 sf.	4,000 sf.	4,000 sf.	1

Development Standards	Zones					Additional Regulations
	RU-1	**RU-2**	**RU-3**	**RU-4**	**RU-5**	
Maximum Density						
Permitted density for regular dwelling units	1 unit per 1,100 sf. of lot area	1 unit per 800 sf. of lot area	1 unit per 450 sf. of lot area	See Table 17.19.04	See Table 17.19.04	2
Permitted density for rooming units	N/A	1 unit per 800 sf. of lot area	1 unit per 450 sf. of lot area	See Table 17.19.04	See Table 17.19.04	
Minimum Setbacks						
Minimum front (≤20% street-to-setback gradient) for Residential Facilities	15 ft.	10 ft.	10 ft.	5 ft.	0 ft.	3, 4, 5, 6
Minimum front (>20% street-to-setback gradient) for Residential Facilities	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	3, 4, 5, 6
Minimum front for Commercial Facilities	15 ft.	10 ft.	10 ft.	0 ft.	0 ft.	3
Minimum interior side	4 ft.	4 ft.	0 ft.	0 ft.	0 ft.	3, 7, 8
Minimum street side	4 ft.	4 ft.	4 ft.	0 ft.	0 ft.	3, 4, 7, 9
Rear (Residential Facilities)	15 ft.	15 ft.	15 ft.	10/15 ft.	10/15 ft.	3, 7, 10, 11
Rear (Nonresidential Facilities)	15 ft.	15 ft.	15 ft.	0/10/15 ft.	0/10/15 ft.	3, 10, 11
Reduced Setbacks for Smaller Lots < 3,000 sf. or < 35 ft. wide						
Minimum interior side	3 ft.	3 ft.	0 ft.	N/A	N/A	3, 8
Minimum street side	3 ft.	3 ft.	3 ft.	N/A	N/A	3, 4, 8
Height Regulations						
Minimum height of ground floor Nonresidential Facilities	N/A	N/A	N/A	12 ft.	12 ft.	12
Minimum separation between the grade and ground floor living space	N/A	N/A	N/A	2.5 ft.	2.5 ft.	13
Maximum height primary building	40 ft.	50 ft.	60 ft.	See Table 17.19.04	See Table 17.19.04	14, 15
Maximum height for accessory structures	15 ft.	15 ft.	15 ft.	See Table 17.19.04	See Table 17.19.04	
Parking Requirements						

Development Standards	Zones					Additional Regulations
	RU-1	**RU-2**	**RU-3**	**RU-4**	**RU-5**	
Minimum Parking Spaces Required per Regular Residential Unit	1	1	1	1	1	16
Additional Parking Spaces Required for Secondary Unit	1	1	1	1	1	16, 17
Parking and driveway location requirements	No	No	No	Yes	Yes	18
Minimum Parking Spaces for Nonresidential Activities	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking					
Minimum Usable Open Space						
Group usable open space per regular unit	175 sf.	175 sf.	150 sf.	See Table 17.19.04	See Table 17.19.04	19
Group usable open space per regular unit when private open space is substituted	50 sf.	30 sf.	30 sf.	See Table 17.19.04	See Table 17.19.04	19
Group usable open space per rooming unit	85 sf.	85 sf.	75 sf.	See Table 17.19.04	See Table 17.19.04	19
Group usable open space per rooming unit when private open space substituted	15 sf.	15 sf.	15 sf.	See Table 17.19.04	See Table 17.19.04	19
Courtyard Regulations	See Section 17.108.120					

Additional Regulations for Table 17.19.03:

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, lot width mean and street frontage regulations.

2. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one (1) Primary Unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

3. See Section 17.108.130 for allowed projections into setbacks.

4. On lots with only Residential Facilities, paved surfaces within required street-fronting yards, and any unimproved rights-of-way of adjacent streets, shall be limited to fifty percent (50%) on interior lots and thirty percent (30%) on corner lots. Exceptions: The maximum percentages of paved surfaces specified in this additional regulation may be exceeded within unimproved rights-of-way in the following cases upon issuance of a private construction of public

improvements (P-job) permit or if undertaken directly by the City or by a private contractor under contract to the City:

a. Roadway construction or widening;

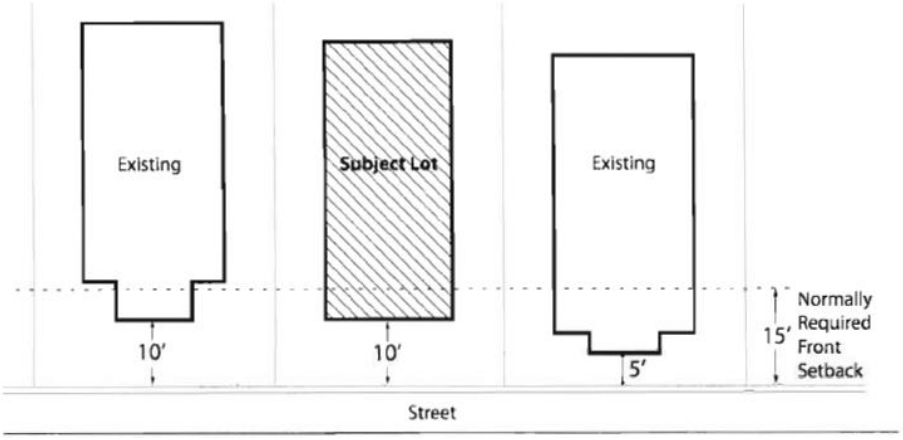
b. Sidewalk construction or widening; and

c. Any work pursuant to an approved final map, parcel map or final development plan pursuant to a Planned Unit Development (PUD) permit.

For purposes of this additional regulation, an unimproved right-of-way is the portion of a street or alley right-of-way that is not paved.

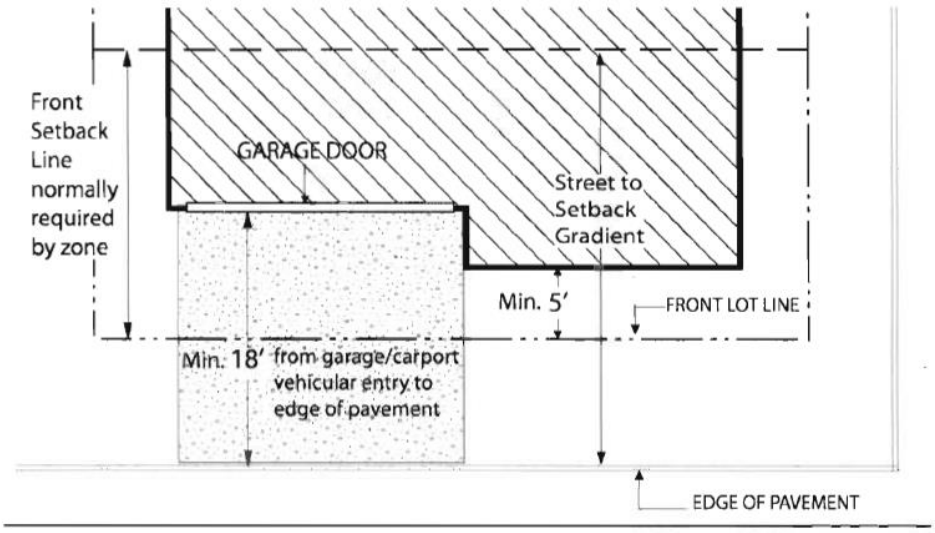
5. In the RU-1 Zone, if adjacent lots abutting the side lot lines of the subject lot both contain principal Residential Facilities that have front setbacks with a depth of less than fifteen (15) feet, the minimum front setback may be reduced for buildings and other structures on the subject lot up to a line parallel to the front lot line and extended from the most forward projection of the principal Residential Facility on the adjacent lots having the deeper front setback depth, provided such projection is enclosed, has a wall height of at least eight (8) feet, and has a width of at least five (5) feet. In the case of a corner lot or lot that has a vacant parcel next to it, this same principal may apply if the two (2) lots adjacent to the corner lot or lot along its front lot line have less than a fifteen (15) foot front setback (see Illustration for Table 17.19.03 [Additional Regulation 5], below). Also, see Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.19.03 [Additional Regulation 5]
*for illustration purposes only



6. In all Residential Zones, the minimum front setback otherwise required by the applicable individual zone regulations shall be reduced to five (5) feet on any lot with a street-to-setback gradient that exceeds twenty percent (20%), provided, however, that the distance from the edge of the pavement to a garage or carport elevation containing one or more vehicular entries shall be at least eighteen (18) feet (see Illustration for Table 17.19.03 [Additional Regulation 6], below). See Section 17.108.130 for allowed projections into setbacks.

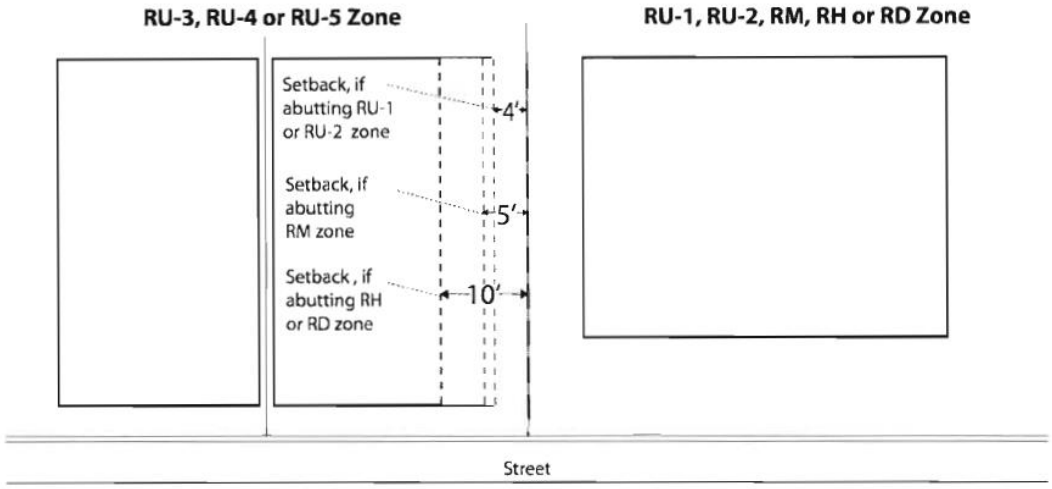
Illustration for Table 17.19.03 [Additional Regulation 6
*for illustration purposes only



7. See Section 17.108.080 for the required interior side and rear setbacks on a lot containing two (2) or more living units and opposite a legally-required living room window.

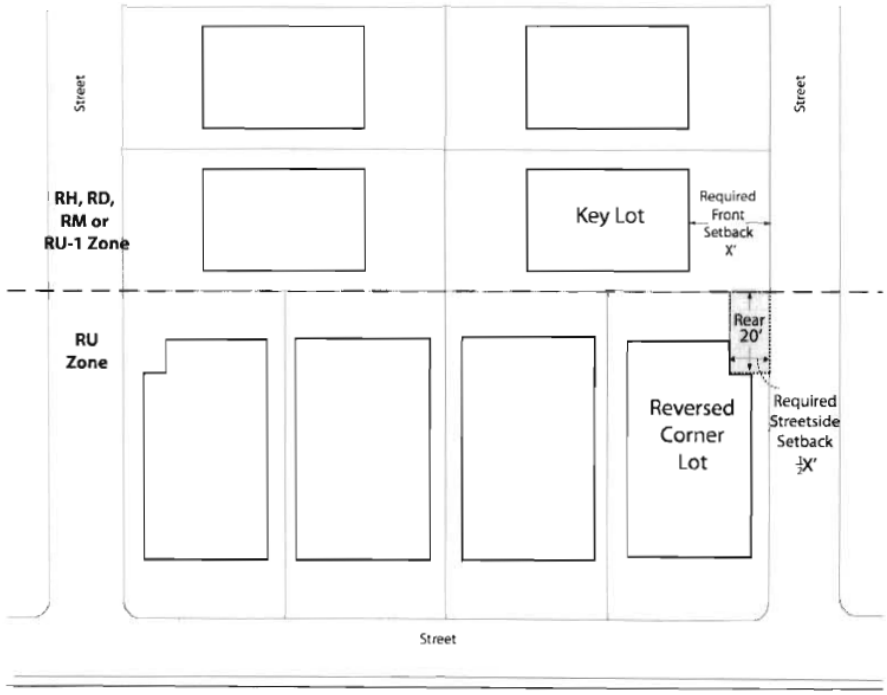
8. Wherever an interior side lot line of any lot located in the RU-3, RU-4, or RU-5 Zone abuts an interior side lot line of any lot located in an RH or RD Zone, the setback of the abutting portion of its side lot line is ten (10) feet. In the case where an interior side lot line of any lot located in the RU-3, RU-4, or RU-5 Zone abuts an interior side lot line in an RM Zone, the setback of the abutting portion of its side lot line is five (5) feet. In the case where an interior side lot line in an RU-3, RU-4, or RU-5 lot abuts a side yard of an RU-1 or RU-2 lot, a side setback of four (4) feet is required (see Illustration for Table 17.19.03 [Additional Regulation 8] below).

Illustration for Table 17.19.03 [Additional Regulation 8]
*for illustration purposes only



9. When the rear yard of a reversed corner lot abuts a key lot that is in an RH, RD, or RM Zone, the required street side yard setback in the rear twenty (20) feet of the reversed corner lot is one-half (½) of the minimum front yard required on the key lot (see Illustration for Table 17.19.03 [Additional Regulation 9], below).

Illustration for Table 17.19.03 [Additional Regulation 9]
*for illustration purposes only



10. Wherever a rear lot line abuts an alley, one-half (½) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

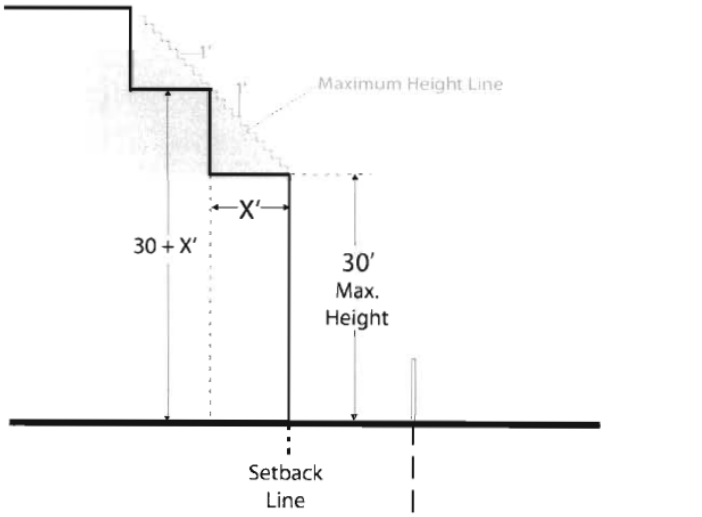
11. When a rear lot line in the RU-4 or RU-5 Zones is adjacent to an RH, RD, or RM Zone, the required rear setback for both Residential and Nonresidential Facilities is ten (10) feet if the lot depth is one hundred (100) feet or less and fifteen (15) feet if the lot depth is more than one hundred (100) feet. When a rear lot line of a lot in these zones is not adjacent to an RH, RD, or RM Zone, the required rear setback is ten (10) feet for Residential Facilities and there is no required setback for Nonresidential Facilities.

12. This height is only required for new principal buildings and is measured from the sidewalk grade to the ground floor ceiling.

13. This regulation only applies to new Residential Facilities and ground floor living space located within fifteen (15) feet of a street frontage.

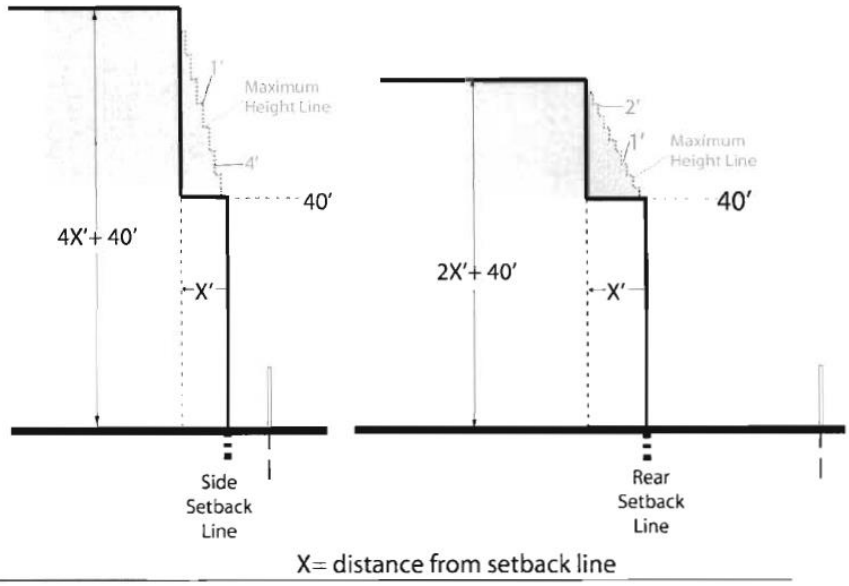
14. Buildings in the RU Zones shall have a thirty (30) foot maximum height at the setback line associated with any rear or interior side lot line that abut a lot in an RH, RD, or RM Zone; this maximum height may increase one (1) foot for every foot of distance from this setback line (see Illustration for Table 17.19.03 [Additional Regulation 14], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

Illustration for Table 17.19.03 [Additional Regulation 14]
*for illustration purposes only



15. In the RU-2 and RU-3 Zone, a building may only exceed forty (40) feet in height up to the maximum height if each portion above forty (40) feet is: Set back from the inner line of each of the minimum side setbacks, if any, required by Subsection 17.28.150.C.1 a minimum horizontal distance equal to one (1) foot for each four (4) feet by which it extends above the height of forty (40) feet; and set back from the inner line of the minimum rear yard required by Subsection 17.28.150.D a minimum horizontal distance equal to one (1) foot for each two (2) feet by which it extends above the height of forty (40) feet, provided, however, that such setback from the inner line of the minimum rear yard need not exceed forty (40) feet (see Illustration for Table 17.19.03 [Additional Regulation 15], below).

Illustration for Table 17.19.03 [Additional Regulation 15]
*for illustration purposes only



16. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117. Also, additional parking standards apply within the S-11 and S-12 Zones, as prescribed in Chapters 17.92 and 17.94.

17. Unless otherwise specified in Section 17.103.080, one (1) parking space for the Secondary Unit is required in addition to any required parking spaces for the Primary Unit. Additional regulations that apply to Secondary Units are provided in Section 17.103.080.

18. For the new construction of principal buildings in the RU-4 and RU-5 Zones, access to parking and loading facilities through driveways, garage doors, or other means shall not be from the principal street when alternative access is feasible from another location such as a secondary frontage or an alley. Where this is not feasible, every reasonable effort shall be made to share means of vehicular access with abutting properties. Open parking areas shall not be located between the sidewalk and a principal building.

19. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling unit. All usable open space shall meet the standards contained in Chapter 17.126.

B. **Height, Floor Area Ratio (FAR), Density, and Open Space for the RU-4 and RU-5 Zones Only.** Table 17.19.04 below prescribes height, FAR, intensity, and open space standards associated with the Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table. "N/A" designates a regulation is not applicable to the specified Height Area.

Table 17.19.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations for the RU-4 and RU-5 Zones Only

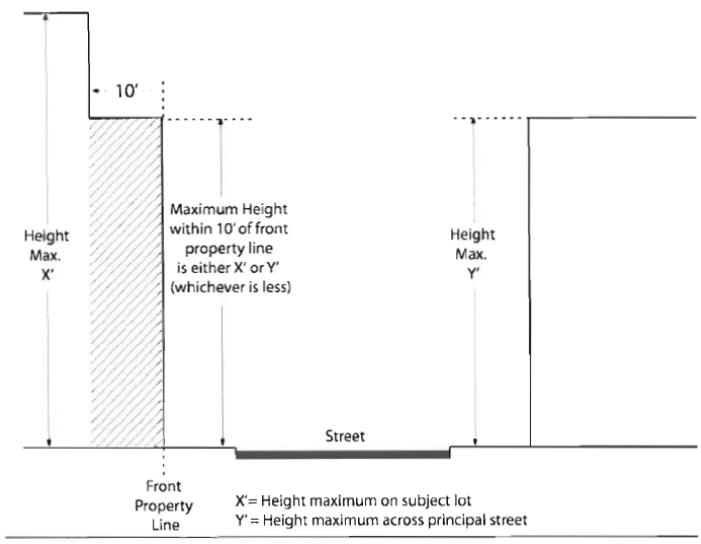
Regulation	**Height Area**						**Additional Regulations**
	35	**45**	**60**	**75**	**90**	**120**	
Maximum Height	35 ft.	45 ft.	60 ft.	75 ft.	90 ft.	120 ft.	1, 2
Height Minimum							
Permitted height minimum	N/A	N/A	35 ft.	35 ft.	35 ft.	35 ft.	3
Conditionally permitted height minimum	N/A	N/A	25 ft.	25 ft.	25 ft.	25 ft.	3
Maximum Residential Density (square feet of lot area required per unit)	550 sf.	450 sf.	375 sf.	275 sf.	225 sf.	225 sf.	4, 5
Maximum Nonresidential FAR	2.0	2.5	3.0	4.0	4.0	4.0	4, 5
Maximum Number of Stories (not including underground construction)	3	4	5	7	8	11	
Minimum Usable Open Space							
Group usable open space per regular unit	150 sf.	150 sf.	150 sf.	150 sf.	100 sf.	100 sf.	6
Group usable open space per regular	30 sf.	30 sf.	30 sf.	30 sf.	20 sf.	20 sf.	6

Regulation	Height Area						Additional Regulations
	35	45	60	75	90	120	
unit when private open space substituted							
Group usable open space per rooming unit	75 sf.	75 sf.	75 sf.	75 sf.	50 sf.	50 sf.	6
Group usable open space per rooming unit when private open space is substituted	15 sf.	15 sf.	15 sf.	15 sf.	10 sf.	10 sf.	6

Additional Regulations for Table 17.19.04:

1. The maximum height within ten (10) feet of the front property line is either the height limit on the subject lot shown in the above table or the height maximum for the height area of the parcel directly across the principal street, whatever is less (see Illustration for Table 17.19.04 [Additional Regulation 1], below).

Illustration for Table 17.19.04 [Additional Regulation 1]
*for illustration purposes only



2. Buildings in the RU Zones shall have a thirty (30) foot maximum height at the setback line along any rear or interior side lot line that abuts a lot in an RH, RD, or RM Zone; this maximum height may increase one (1) foot for every foot of distance away 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.

3. This minimum height requirement only applies to the new construction of a principal building that is located on parcels adjacent to a street right-of-way that is one hundred (100) feet wide or more. Buildings constructed to accommodate Essential Service, Utility and Vehicular, or Extensive Impact Civic Activities are exempted from the height minimum regulation. The

allowed projections into the height limits contained in Section 17.108.030 are not counted towards the height minimum.

4. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one (1) Primary Unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

5. No portion of lot area used to meet the residential density requirements shall be used as a basis for computing the maximum nonresidential FAR unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.

6. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling unit. All usable open space shall meet the standards contained in Chapter 17.126.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

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17.19.060 Special regulations for Mini-Lot and Planned Unit Developments.

A. **Mini-Lot Developments.** In Mini-Lot Developments, certain regulations that apply to individual lots in the RU Zones may be waived or modified when and as prescribed in Chapter 17.142.

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 RU Zones, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.19.070 Other zoning provisions.

A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112. See Section 17.112.060 for home occupation regulations specific to the West Oakland Specific Plan Area.

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

C. Chapters 17.104, 17.106, and 17.108 shall apply in the RU Zones.

D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in RU-1, RU-2, RU-3, RU-4, and RU-5 Zones.

E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the RU Zones.

F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

Chapter 17.20 RESERVED [8]

FOOTNOTE(S):

--- (**8**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.20, §§ 17.20.010—17.20.180 in its entirety, which pertained to R-36 small lot residential zone regulations and derived from the prior planning code, §§ 3575, 3576, 3578—3581, 3587—3591, 3594—3599; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.07, 5.09, 5.10, 5.16, 5.61, adopted 1996; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12199, §§ 3, 4D, adopted 2000; Ord. No. 12376, § 3, adopted 2001; Ord. No. 12501, §§ 25, 27—29, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.22 RESERVED [9]

FOOTNOTE(S):

--- (**9**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.22, §§ 17.22.010—17.22.190 in its entirety, which pertained to R-40 garden apartment residential zone regulations and derived from the prior planning code, §§ 3600, 3602.1, 3603—3606, 3613—3616, 3619—3624; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.07, 5.09, 5.10, 5.17, 5.60, adopted 1996; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12199, §§ 4F, 5D, adopted 2000; Ord. No. 12376, § 3, adopted 2001; Ord. No. 12501, §§ 31—33, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.24 RESERVED [10]

FOOTNOTE(S):

--- (**10**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.24, §§ 17.24.010—17.24.190 in its entirety, which pertained to R-50 medium density residential zone regulations and derived from the prior planning code, §§ 3650, 3652.1, 3653—3656, 3663—3666, 3669—3674; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.07, 5.09, 5.10, 5.18, 5.60, adopted 1996; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12199, §§ 4F, 5D, adopted 2000; Ord. No. 12376, § 3, adopted 2001; Ord. No. 12406, § 4, adopted 2002; Ord. No. 12501, §§ 35—37, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.26 RESERVED [11]

FOOTNOTE(S):

--- (**11**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.26, §§ 17.26.010—17.26.180 in its entirety, which pertained to R-60 medium-high density residential zone regulations and derived from the prior planning code, §§ 3750, 3752.1, 3753, 3756, 3763—3765, 3767, 3769—3774; Ord. No. 11807, § 3, adopted 1996; Ord. No. 11904, §§ 5.08—5.10, 5.19, 5.60, adopted 1996; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12501, §§ 39, 40, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.28 RESERVED [12]

FOOTNOTE(S):

--- (**12**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.28, §§ 17.28.010—17.28.190 in its entirety, which pertained to R-70 high density residential zone regulations and derived from the prior planning code, §§ 3800, 3802.1, 3803—3806, 3811, 3813—3815, 3817, 3819—3824; Ord. No. 11807, § 3, adopted 1996; Ord. No. 11904, §§ 5.08—5.10, 5.20, 5.60, adopted 1996; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12501, §§ 42, 43, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.30 R-80 HIGH-RISE APARTMENT RESIDENTIAL ZONE REGULATIONS [13]

Sections:

17.30.010 Title, purpose, and applicability.

17.30.040 Required design review process.

17.30.050 Permitted activities.

17.30.060 Conditionally permitted activities.

17.30.070 Permitted facilities.

17.30.080 Conditionally permitted facilities.

17.30.090 Special regulations applying to certain commercial activities.

17.30.100 Performance standards for commercial activities.

17.30.110 Use permit criteria for commercial activities.

17.30.120 Limitations on signs.

17.30.130 Minimum lot area, width, and frontage.

17.30.140 Maximum residential density.

17.30.150 Maximum Floor-Area Ratio.

17.30.160 Maximum height.

17.30.170 Minimum yards and courts.

17.30.180 Minimum usable open space.

17.30.190 Buffering.

17.30.200 Special regulations for Mini-Lot Developments, Planned Unit Developments, and large-scale developments.

17.30.210 Other zoning provisions.

17.30.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the R-80 High-Rise Apartment Residential Regulations. The intent of the High-Rise Apartment Residential (R-80) Zone is to create, preserve, and enhance areas for high-rise apartment living at high densities in desirable settings, and is typically appropriate to areas near major shopping and community centers and rapid transit stations. These regulations shall apply in the R-80 Zone.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.040 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.050 Permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, are permitted:

A. Residential Activities:

Permanent

Residential Care occupying a One-Family Dwelling Residential Facility

Supportive Housing

Transitional Housing

Semi-Transient

B. Civic Activities:

Essential Service

Limited Child-Care

Community Assembly

Recreational Assembly

Community Education

Nonassembly Cultural

Telecommunications

C. Agricultural and Extractive Activities:

Limited Agriculture, permitted outright if the activity occupies less than one (1) acre of land area and any on-site sales occur no more than two (2) times per week between the hours of 8:00 am and 9:00 pm in a temporary movable structure not exceeding two hundred (200) square feet in size; conditionally permitted if the activity is larger in either land area, or in sales area, frequency, or hours of operation (see Chapter 17.134 for the CUP procedure)

(Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.060 Conditionally permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Residential Activities:

Residential Care, except when occupying a One-Family Dwelling Residential Facility

Emergency Shelter

B. Civic Activities:

Administrative

Health Care

Utility and Vehicular

Extensive Impact

C. Commercial Activities:

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Convenience Market

Alcoholic Beverage Sales

Medical Service

Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)

Consultative and Financial Service, but limited to the provision of advice, designs, information, or consultation of a professional nature

D. Agricultural and Extractive Activities:

Extensive Agriculture, with additional use permit criteria that the proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic

E. Off-street parking serving activities other than those listed above or in Section 17.30.050, subject to the conditions set forth in Section 17.116.075.

F. Activities that are listed neither as permitted nor conditionally permitted, but are permitted or conditionally permitted on nearby lots in an adjacent zone subject to the conditions set forth in Section 17.102.110.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.070 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

A. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.103.080

Two-Family Dwelling

Multifamily Dwelling

Rooming House

B. Nonresidential Facilities:

Enclosed

Open

C. Signs:

Residential

Special

Development

Realty

Civic

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.080 Conditionally permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Telecommunications Facilities:

Micro Telecommunications

Mini Telecommunications

Macro Telecommunications

Monopole Telecommunications

(Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.090 Special regulations applying to certain commercial activities.

All General Food Sales, Full Service Restaurant, Limited Service Restaurant and Cafe, Convenience Market, Alcoholic Beverage Sales, and Consumer Service Commercial Activities shall, except for off-street parking and loading and maintenance of accessory landscaping and screening, be conducted entirely within enclosed portions of Multifamily Dwelling or Rooming House Residential Facilities, with customer access only through the lobby of such a facility. The maximum floor area devoted to such activities by any single establishment shall be one thousand five hundred (1,500) square feet. No Business Signs or display windows shall be provided for such activities. See also Section 17.103.030.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.100 Performance standards for commercial activities.

All Commercial Activities shall be subject to the applicable provisions of the performance standards in Chapter 17.120.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.110 Use permit criteria for commercial activities.

A. General Food Sales, Full Service Restaurant, Limited Service Restaurant and Cafe, Convenience Market, Fast-Food Restaurant, Alcoholic Beverage Sales, or Consumer Service. A conditional use permit for General Food Sales, Full Service Restaurant, Limited Service Restaurant and Cafe, Convenience Market, Fast-Food Restaurant, Alcoholic Beverage Sales, or Consumer Service Commercial Activities may 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 that the proposed activities are intended primarily to serve residents of the facility within which the activities are to be located. See also Section 17.103.030.

B. Consultative and Financial Service. A conditional use permit for Consultative and Financial Service Commercial Activities may 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 both of the following additional criteria:

    1. That the proposal involves preservation of an existing building which is architecturally or culturally significant, or which will substantially contribute to the livability of abutting properties and the surrounding neighborhood by providing architectural variety, lower bulk and coverage than otherwise permitted, and a generous amount of open space and landscaping;

    2. That the proposed activity will generate little or no vehicular and pedestrian traffic beyond that represented by persons working on the premises.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.120 Limitations on signs.

All Signs shall be subject to the applicable limitations set forth in Section 17.104.010. See also Section 17.30.090.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.130 Minimum lot area, width, and frontage.

Every lot shall have a minimum lot area of four thousand (4,000) square feet and a minimum lot width mean of twenty-five (25) feet, except as a lesser area or width is allowed by Section 17.106.010. Every lot shall have a minimum frontage of twenty-five (25) feet upon a street, except as this requirement is modified by Section 17.106.020.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.140 Maximum residential density.

The maximum density of Residential Facilities shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum density on lots containing both Residential and Nonresidential Facilities. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms. No Residential Facility shall be permitted to have both an additional kitchen as provided for in Subsection 17.102.270.B and a Secondary Unit.

A. Permitted Density. One (1) regular dwelling unit is permitted for each three hundred (300) square feet of lot area, provided that one (1) extra such unit is permitted if a remainder of two hundred (200) square feet or more is obtained after division of the lot area by three hundred (300) square feet. One (1) efficiency dwelling unit is permitted for each two hundred (200) square feet of lot area, provided that one (1) extra such unit is permitted if a remainder of one hundred fifty (150) square feet or more is obtained after division of the lot area by two hundred (200) square feet. One (1) rooming unit is permitted for each one hundred fifty (150) square feet of lot area, provided that one extra such unit is permitted if a remainder of one hundred (100) square feet or more is obtained after division of the lot area by one hundred fifty (150) square feet. For a combination of different types of living units, the total required lot area shall be the sum of the above requirements for each. The number of living units permitted heretofore may be exceeded by ten percent (10%) on any corner lot, and may also be exceeded by ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot. A One-Family Dwelling or a One-Family Dwelling with Secondary Unit is permitted on any lot which qualifies under Section 17.106.010 as an existing buildable parcel and that contains no other dwelling units.

B. Conditionally Permitted Density. The number of living units permitted by Subsection A. of this Section may be increased by not to exceed fifty percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

    1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040;

    2. Upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

The number of living units may also be increased, as prescribed in Section 17.106.060, in certain special housing.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.150 Maximum Floor-Area Ratio.

The maximum Floor-Area Ratio of any facility shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum Floor-Area Ratio on lots containing both Residential and Nonresidential Facilities:

A. Permitted Floor-Area Ratio (FAR). The maximum permitted Floor-Area Ratio is 3.50, except that this ratio may be exceeded by ten percent (10%) on any corner lot and may also be exceeded by ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot.

B. Conditionally Permitted Floor-Area Ratio (FAR). The Floor-Area Ratio permitted by Subsection A. of this Section may be increased by not to exceed fifty percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040;

2. For any facility, upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.160 Maximum height.

Except as provided in Chapter 17.128, no general maximum height is prescribed, except that the height of facilities shall be limited, as prescribed in Section 17.108.010, on lots lying along a boundary of any of certain other zones. But see Section 17.30.120 for maximum height of Signs, and Section 17.108.130 for maximum height of facilities within minimum yards and courts.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.170 Minimum yards and courts.

The following minimum yards and courts shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130:

A. Front Yard. The minimum front yard depth on every lot shall be ten (10) feet.

B. Side Yard—Interior Lot Line. No side yard is generally required along an interior side lot line except as follows:

1. A side yard shall be provided, when and as prescribed in Section 17.108.080, opposite a living room window which faces an interior side lot line and which is located on a lot containing Residential Facilities with a total of two (2) or more living units.

C. Rear Yard. The minimum rear yard depth on every lot shall be ten (10) feet.

D. Courts. On each lot containing Residential Facilities with a total of two (2) or more living units, courts shall be provided when and as required by Section 17.108.120.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.180 Minimum usable open space.

On each lot containing Residential Facilities with a total of two (2) or more living units, group usable open space shall be provided for such facilities in the minimum amount of one hundred fifty (150) square feet per regular dwelling unit plus one hundred (100) square feet per efficiency dwelling unit plus seventy-five (75) square feet per rooming unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020. All required space shall conform to the standards for required usable open space in Chapter 17.126.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.190 Buffering.

All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, and storage areas; control of artificial illumination; and other matters specified therein.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.200 Special regulations for Mini-Lot Developments, Planned Unit Developments, and large-scale developments.

A. **Mini-Lot Developments.** In Mini-Lot Developments, certain of the regulations otherwise applying to individual lots in the R-80 Zone may be waived or modified when and as prescribed in Chapter 17.142.

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 R-80 Zone, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

C. **Large-Scale Developments.** No development which involves more than one hundred thousand (100,000) square feet of new floor area, or a new building or portion thereof of more than one hundred twenty (120) feet in height, shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. This requirement shall not apply to developments where a valid planned unit development permit is in effect.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011)

17.30.210 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 R-80 Zone.

F. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in R-80 Zone.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011)

FOOTNOTE(S):

--- (**13**) ---

Editor's note— Prior to the reenactment of Chapter 17.30 by Ord. No. 13090, Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.30, §§ 17.30.010—17.30.210 in its entirety, which pertained to R-80 high-rise apartment residential zone regulations and derived from the prior planning code, §§ 3850, 3852.1, 3853—3856, 3858, 3860, 3861, 3863—3865, 3867, 3869—3874; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.08, 5.09, 5.11, 5.21, 5.60, adopted 1996; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12501, §§ 45, 46, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.32 RESERVED [14]

FOOTNOTE(S):

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Editor's note— Ord. No. 13090, § 4(Exh. A), adopted October 4, 2011, repealed the former Chapter 17.32, §§ 17.32.010—17.32.210 in its entirety, which pertained to R-90 downtown apartment residential zone regulations and derived from Ord. No. 12971, § 2(Exh. A), adopted September 22, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.33 CN NEIGHBORHOOD CENTER COMMERCIAL ZONES REGULATIONS

Sections:

17.33.010 Title, intent, and description.

17.33.020 Required design review process.

17.33.030 Permitted and conditionally permitted activities.

17.33.040 Permitted and conditionally permitted facilities.

17.33.050 Property development standards.

17.33.060 Special regulations for mini-lot and Planned Unit Developments.

17.33.070 Other zoning provisions.

17.33.010 Title, intent, and description.

A. Title and Intent. The provisions of this Chapter shall be known as the CN Neighborhood Center Commercial Zones Regulations. The intent of the Neighborhood Center Commercial (CN) Zones is to create, preserve, and enhance mixed use neighborhood commercial centers. The centers are typically characterized by smaller scale pedestrian oriented, continuous and active store fronts with opportunities for comparison shopping. These regulations shall apply to the CN Zones.

B. Description of Zones. This Chapter establishes land use regulations for the following four (4) zones:

1. **CN-1 Neighborhood Commercial - 1 Zone.** The intent of the CN-1 Zone is to maintain and enhance vibrant commercial districts with a wide range of retail establishments serving both short and long term needs in attractive settings oriented to pedestrian comparison shopping.
2. **CN-2 Neighborhood Commercial - 2 Zone.** The intent of the CN-2 Zone is to enhance the character of established neighborhood commercial centers that have a compact, vibrant pedestrian environment.
3. **CN-3 Neighborhood Commercial - 3 Zone.** The intent of the CN-3 Zone is to create, improve, and enhance areas neighborhood commercial centers that have a compact, vibrant pedestrian environment.
4. **CN-4 Neighborhood Commercial - 4 Zone.** The intent of the CN-4 Zone is to accommodate a broad range of low impact, retail, and service uses in small commercial districts, often near lower density residential neighborhoods.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.33.020 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.33.030 Permitted and conditionally permitted activities.

Table 17.33.01 lists the permitted, conditionally permitted, and prohibited activities in the CN Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.33.01: Permitted and Conditionally Permitted Activities

Activities	Zones				Additional Regulations
	CN-1	**CN-2**	**CN-3**	**CN-4**	
Residential Activities					
Permanent	P(L2)(L3)	P(L2)(L3)	P(L3)	P(L3)	
Residential Care	P(L1)(L2)(L3)	P(L1)(L2)(L3)	P(L1)(L3)	P(L1)(L3)	17.103.010
Supportive Housing	P(L2)(L3)	P(L2)(L3)	P(L3)	P(L3)	
Transitional Housing	P(L2)(L3)	P(L2)(L3)	P(L3)	P(L3)	
Emergency Shelter	P(L5)	P(L5)	P(L5)	C(L1)(L3)	17.103.010
Semi-Transient	—	—	—	—	
Bed and Breakfast	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	C(L3)	
Civic Activities					
Essential Service	P(L17)	P(L17)	P(L17)	P(L17)	
Essential Service	P	P	P	P	
Limited Child-Care Activities	P(L2)	P(L2)	P(L6)	P(L6)	
Community Assembly	C(L4)	C(L4)	C(L4)	C	
Recreational Assembly	P(L2)	P(L2)	P(L6)	P(L6)	
Community Education	C(L4)	C(L4)	C(L4)	C	
Nonassembly Cultural	P(L6)	P(L6)	P(L6)	P(L6)	
Administrative	P(L2)	P(L2)	P(L6)	P(L6)	

Activities	Zones				Additional Regulations
	CN-1	**CN-2**	**CN-3**	**CN-4**	
Health Care	C(L4)	C(L4)	C(L4)	C	
Special Health Care	C(L4)(L7)	C(L4)(L7)	C(L4)(L7)	C(L7)	17.103.020
Utility and Vehicular	C(L4)	C(L4)	C(L4)	C	
Extensive Impact	C(L4)	C(L4)	C(L4)	C	
Commercial Activities					
General Food Sales	P(L6)	P(L6)	P(L8)	P(L8)	
Full Service Restaurants	C(L4)	P(L6)	P(L6)	P(L6)	
Limited Service Restaurant and Cafe	C(L4)	P(L6)	P(L6)	P(L6)	
Fast-Food Restaurant	C(L4)	C(L4)	C(L4)	C	17.103.030 and 8.09
Convenience Market	C(L4)	C(L4)	C(L4)	C	17.103.030
Alcoholic Beverage Sales	C(L4)	C(L4)	C(L4)	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	C(L4)	C(L4)	C(L4)	C	
Medical Service	P(L2)	P(L8)	P(L8)	P(L6)	
General Retail Sales	P(L6)	P(L6)	P(L9)	P(L9)	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	
Consumer Service	P(L6)(L10)	P(L6)(L10)	P(L6)(L10)	P(L6)(L10)	
Consultative and Financial Service	P(L2)	P(L11)	P(L6)	P(L6)	
Check Cashier and Check Cashing	—	—	—	—	
Consumer Cleaning and Repair Service	P(L6)	P(L6)	P(L6)	P(L6)	
Consumer Dry Cleaning Plant	C(L4)	C(L4)	C(L4)	C	
Group Assembly	C(L4)(L12)	C(L4)(L12)	C(L4)(L12)	C(L12)	
Personal Instruction and Improvement Services	P(L2)	P(L6)	P(L6)	P(L6)	
Administrative	P(L2)	P(L2)	P(L6)	P(L6)	
Business, Communication, and Media Services	P(L2)	P(L2)	P(L6)	P(L6)	
Broadcasting and Recording Services	P(L2)	P(L2)	P(L6)	P(L6)	

Activities	Zones				Additional Regulations
	CN-1	**CN-2**	**CN-3**	**CN-4**	
Research Service	C(L4)	C(L4)	P(L6)	P(L6)	
General Wholesale Sales	—	—	—	—	
Transient Habitation	—	—	—	—	
Building Material Sales	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	C	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	—	
Taxi and Light Fleet-Based Services	—	—	—	—	
Automotive Fee Parking	C(L4)	C(L4)	C(L4)	C	
Animal Boarding	—	—	—	—	
Animal Care	C(L4)	C(L4)	P(L6)	P(L6)	
Undertaking Service	—	—	—	—	
Industrial Activities					
Custom Manufacturing	C(L4)(L13)	C(L4)(L13)	C(L13)	C	
Light Manufacturing	—	—	—	—	
General Manufacturing	—	—	—	—	
Heavy/High Impact	—	—	—	—	
Research and Development	—	—	—	—	
Construction Operations	—	—	—	—	
Warehousing, Storage, and Distribution					
A. General Warehousing, Storage and Distribution	—	—	—	—	
B. General Outdoor Storage	—	—	—	—	
C. Self- or Mini-Storage	—	—	—	—	
D. Container Storage	—	—	—	—	
E. Salvage/Junk Yards	—	—	—	—	
Regional Freight Transportation	—	—	—	—	
Trucking and Truck-Related	—	—	—	—	

Activities	Zones				Additional Regulations
	CN-1	**CN-2**	**CN-3**	**CN-4**	
Recycling and Waste-Related					
A. Satellite Recycling Collection Centers	—	—	—	—	
B. Primary Recycling Collection Centers	—	—	—	—	
Hazardous Materials Production, Storage, and Waste Management-Related	—	—	—	—	
Agriculture and Extractive Activities					
Limited Agriculture	C(L14)	C(L14)	P(L15)	P(L15)	
Extensive Agriculture	C(L16)	C(L16)	C(L16)	C(L16)	
Plant Nursery	C(L4)	C(L4)	C(L4)	C	
Mining and Quarrying	—	—	—	—	
Accessory off-street parking serving prohibited activities	C(L4)	C(L4)	C(L4)	C	17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone	C(L4)	C(L4)	C(L4)	C	17.102.110

Limitations on Table 17.33.01:

L1. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. These activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on the ground floor of a street fronting building. Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet the criteria contained in L4, below.

L3. See Section 17.33.040 for limitations on the construction of new ground floor Residential Facilities.

L4. Any Conditional Use Permit (CUP) required in the above table or its associated limitations shall conform to the CUP criteria contained in Section 17.134.050 and to each of the following additional criteria:

1. That the proposal will not detract from the character desired for the area;

2. That the proposal will not impair a generally continuous wall of building facades;

3. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;

4. That the proposal will not interfere with the movement of people along an important pedestrian street; and

5. That the proposal will conform in all significant respects with any applicable district plan which has been adopted by the City Council.

L5. Emergency Shelters are permitted by-right within those portions of Martin Luther King Jr. Way, San Pablo Avenue, and Macarthur Boulevard corridors described in Section 17.103.015(A)(1)(2)(7) respectively and subject to the development standards in Section 17.103.015(B); permitted upon the granting of a Conditional Use Permit elsewhere in the zone subject to Limitations L1, L3, and L4 above.

L6. The total floor area devoted to these activities on the ground floor by any single establishment may only exceed five thousand (5,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet the criteria contained in L4, above.

L7. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity, or five hundred (500) feet from any K-12 school or Licensed Emergency Shelters. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L8. A Medical Service Commercial Activity that occupies more than thirty-five (35) feet of frontage facing the principal street is not permitted except upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). All window space facing the principal street shall be clear, non-reflective, and allow views into the indoor space.

L9. The total floor area devoted to these activities on the ground floor by any single establishment may only exceed fifteen thousand (15,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet the criteria contained in L4, above.

L10. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L11. With the exception of retail bank branches, these activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on the ground floor of a building. Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet the criteria contained in L4, above. The size limitation described in L5, above, shall apply to retail bank branches.

L12. No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L13. Not permitted on the ground floor.

L14. Limited Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;

2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and

3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

L15. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure).

L16. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

L17. Community Gardens are permitted outright if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. The cultivation of animals, animal products and/or livestock production, except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.33.040 Permitted and conditionally permitted facilities.

Table 17.33.02 lists the permitted, conditionally permitted, and prohibited facilities in the CN Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the table.

"—" designates facilities that are prohibited.

Table 17.33.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones				Additional Regulations
	CN-1	**CN-2**	**CN-3**	**CN-4**	
Residential Facilities					
One-Family Dwelling	—(L1)	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	—(L1)	—(L1)	17.103.080
Two-Family Dwelling	P(L2)	P(L2)	P(L3)	P	
Multifamily Dwelling	P(L2)	P(L2)	P(L3)	P	
Rooming House	P(L2)	P(L2)	P(L3)	P	
Mobile Home	—	—	—	—	
Nonresidential Facilities					
Enclosed Nonresidential	P	P	P	P	
Open Nonresidential	C(L4)	C(L4)	C(L4)	C(L4)	
Sidewalk Cafe	P	P	P	P	17.103.090
Drive-In	—	—	—	C	
Drive-Through	—	—	—	C(L5)	17.103.100
Telecommunications Facilities					
Micro Telecommunications	P(L6)	P(L6)	P(L6)	P(L6)	17.128
Mini Telecommunications	P(L6)	P(L6)	P(L6)	P(L6)	17.128
Macro Telecommunications	C	C	C	C	17.128
Monopole Telecommunications	C	C	C	C	17.128
Tower Telecommunications	—	—	—	—	17.128
Sign Facilities					
Residential Signs	P	P	P	P	17.104
Special Signs	P	P	P	P	17.104
Development Signs	P	P	P	P	17.104
Realty Signs	P	P	P	P	17.104
Civic Signs	P	P	P	P	17.104
Business Signs	P	P	P	P	17.104
Advertising Signs	—	—	—	—	17.104

Limitations on Table 17.33.02:

L1. See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit may be permitted when there is no more than one (1) existing Primary Unit on a lot, subject to the provisions of Section 17.103.080.

L2. Construction of new ground floor Residential Facilities is not permitted except for incidental pedestrian entrances that lead to one of these activities elsewhere in the building.

L3. Ground floor construction of new Residential Facilities is only permitted on interior lots and requires the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP process). New construction of ground floor Residential Facilities is not permitted on a corner lot.

L4. In the CN-1 and CN-2 Zones, no conditional use permit is required for Open Nonresidential Facilities to accommodate Civic Activities, seasonal sales, or special events. In the CN-3 and CN-4 Zones, no conditional use permit is required for Open Nonresidential Facilities to accommodate Civic Activities, Limited Agriculture, seasonal sales, or special events.

L5. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

L6. See Section 17.128.025 for restrictions on Telecommunication Facilities near Residential Zones, HBX Zones, or D-CE-3 or D-CE-4 Zones.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.33.050 Property development standards.

A. Zone Specific Standards. Table 17.33.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates a standard is not applicable to the specified zone.

Table 17.33.03: Property Development Standards

Development Standards	Zones				Additional Regulations
	CN-1	**CN-2**	**CN-3**	**CN-4**	
Minimum Lot Dimensions					
Lot Width Mean	25 ft.	25 ft.	25 ft.	25 ft.	1
Frontage	25 ft.	25 ft.	25 ft.	25 ft.	1
Lot area	4,000 sf.	4,000 sf.	4,000 sf.	4,000 sf.	1
Minimum/Maximum Setbacks					
Minimum front	0 ft.	0 ft.	0 ft.	0 ft.	2
Maximum front	10 ft.	10 ft.	10 ft.	N/A	3
Minimum interior side	0 ft.	0 ft.	0 ft.	0 ft.	4, 5

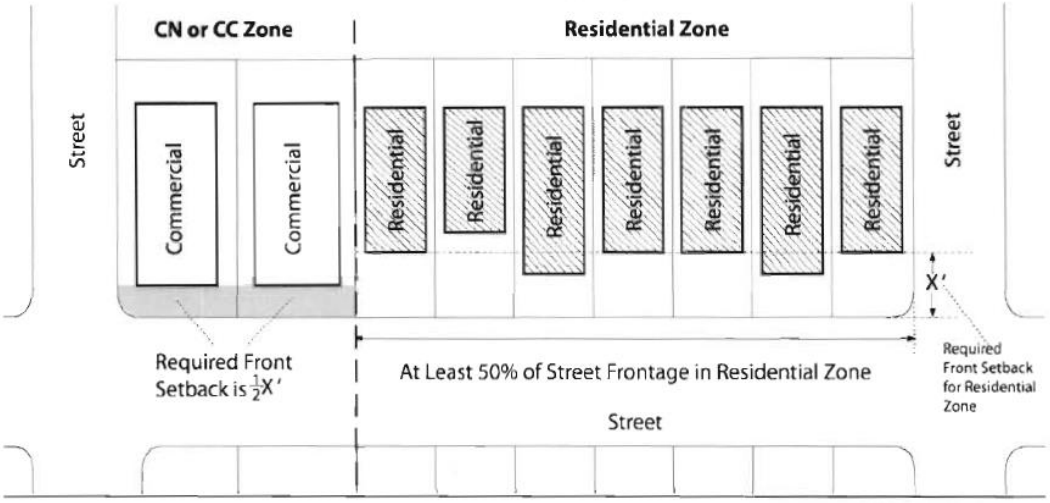
Development Standards	Zones				Additional Regulations
	CN-1	**CN-2**	**CN-3**	**CN-4**	
Minimum street side	0 ft.	0 ft.	0 ft.	0 ft.	6
Rear (Residential Facilities)	10/15 ft.	10/15 ft.	10/15 ft.	10/15 ft.	7, 8
Rear (Nonresidential Facilities)	0/10/15 ft.	0/10/15 ft.	0/10/15 ft.	0/10/15 ft.	8
Design Regulations					
Minimum ground floor nonresidential facade transparency	65%	65%	65%	N/A	9
Minimum height of ground floor Nonresidential Facilities	12 ft.	12 ft.	12 ft.	12 ft.	10
Minimum separation between grade and ground floor living space	N/A	N/A	2.5 ft.	2.5 ft.	11
Parking and driveway location requirements	Yes	Yes	Yes	No	12
Ground floor active space requirement	Yes	Yes	Yes	No	13
Height, Floor Area Ratio, Density, and Open Space Regulations	See Table 17.33.04				
Minimum required parking	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking				14
Courtyard regulations	See Section 17.108.120				

Additional Regulations for Table 17.33.03:

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, lot width mean, and street frontage regulations.

2. If fifty percent (50%) or more of the frontage on one (1) side of the street between two (2) intersecting streets is in any Residential Zone and all or part of the remaining frontage is in any Commercial or Industrial Zone, the required front setback of the commercially or industrially zoned lots is one-half (½) of the minimum front setback required in the Residential Zone. If fifty percent (50%) or more of the total frontage is in more than one Residential Zone, then the minimum front setback on the commercially or industrially zoned lots is one-half (½) of that required in the Residential Zone with the lesser front setback (see Illustration for Table 17.33.03 [Additional Regulation 2]). Also, see Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.33.03 [Additional Regulation 2]
*for illustration purposes only



3. The following notes apply to the maximum front yard requirement:

a. The requirements only apply to the construction of new principal buildings.

b. The requirements do not apply to lots containing Recreational Assembly, Community Education, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities as principal activities.

c. Maximum yards apply to seventy-five percent (75%) of the street frontage on the principal street and fifty percent (50%) on other streets, if any. All percentages, however, may be reduced to fifty percent (50%) upon the granting of regular design review approval (see Chapter 17.136 for the design review procedure). In addition to the criteria contained in Section 17.136.050, the proposal to reduce to fifty percent (50%) must also meet each of the following criteria:

i. The additional yard area abutting the principal street is designed to accommodate publicly accessible plazas, sidewalk cafes, or restaurants;

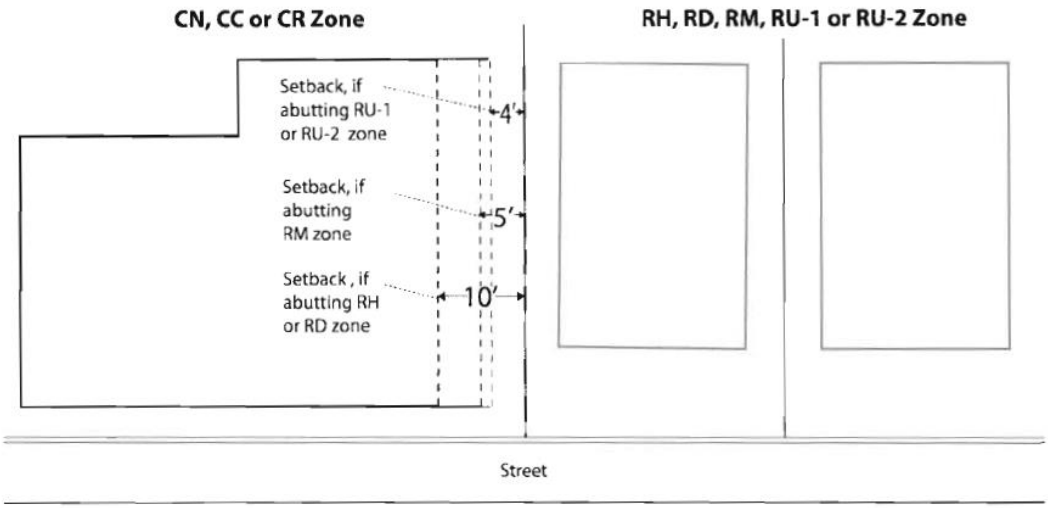
ii. The proposal will not impair a generally continuous wall of building facades;

iii. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and

iv. The proposal will not interfere with the movement of people along an important pedestrian street.

4. Wherever an interior side lot line abuts an interior side lot line of any lot located in an RH or RD Zone, the setback of the abutting portion of its side lot line is ten (10) feet. In the case where an interior side lot line abuts an interior side lot line in a RM Zone, the setback of the abutting portion of its side lot line is five (5) feet. In the case where an interior side lot line abuts a side yard of an RU-1 or RU-2 lot, a side setback of four (4) feet is required (see Illustration for Table 17.33.03 [Additional Regulation 4], below). Also, see Section 17.108.130 for allowed projections into setbacks.

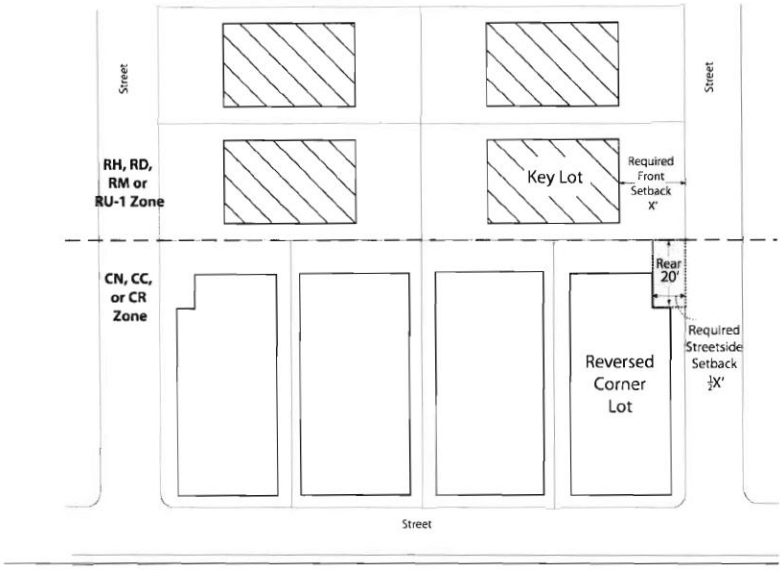
Illustration for Table 17.33.03 [Additional Regulation 4]
*for illustration purposes only



5. See Section 17.108.080 for the required interior side and rear yard setbacks on a lot containing two or more living units and opposite a legally required living room window.

6. When the rear yard of a reversed corner lot abuts a key lot that is in an RH, RD, or RM Zone, the required street side yard setback in the rear twenty (20) feet of the reversed corner lot is one-half (½) of the minimum front yard required on the key lot (see Illustration for Table 17.33.03 [Additional Regulation 6], below). Also, see Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.33.03 [Additional Regulation 6]
*for illustration purposes only

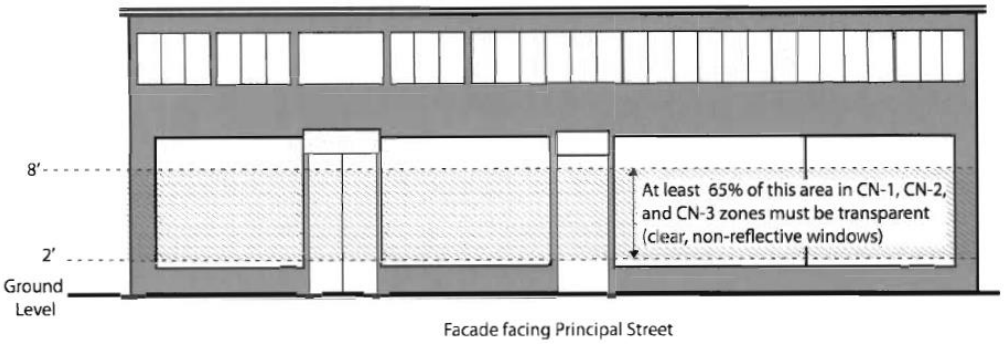


7. Wherever a rear lot line abuts an alley, one-half of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

8. When a rear lot line is adjacent to an RH, RD, or RM Zone, the required rear setback for both Residential and Nonresidential Facilities is ten (10) feet if the lot depth is one-hundred (100) feet or less and fifteen (15) feet if the lot depth is more than one-hundred (100) feet. When a rear lot line is not adjacent to an RH, RD, or RM Zone, the required rear setback is ten (10) feet for Residential Facilities and there is no required setback for Nonresidential Facilities.

9. This percentage of transparency is only required for principal buildings that include ground floor Nonresidential Facilities, and only applies to the facade facing the principal street. The regulations only apply to facades located within twenty (20) feet of a street frontage. The area of required transparency is between two (2) feet and nine (9) feet in height of the ground floor and must be comprised of clear, nonreflective windows that allow views out of indoor commercial space, residential space, or lobbies (see Illustration for Table 17.33.03 [Additional Regulation 9], below). Areas required for garage doors shall not be included in the calculation of facade area (see Note 12 for limitations on the location of parking access). Glass block does not qualify as a transparent window. Exceptions to this regulation may be allowed by the Planning Director for unique facilities such as convention centers, gymnasiums, parks, gas stations, theaters and other similar facilities.

Illustration for Table 17.33.03 [Additional Regulation 9]
*for illustration purposes only



10. This height is only required for new principal buildings and is measured from the sidewalk grade to the ground floor ceiling.

11. This regulation only applies to new Residential Facilities and ground floor living space located within fifteen (15) feet of a street frontage.

12. For the new construction of principal buildings in the CN-1, CN-2, and CN-3 Zones, access to parking and loading facilities through driveways, garage doors, or other means shall not be from the principal street when alternative access is feasible from another location such as a secondary frontage or an alley. Where this is not feasible, every reasonable effort shall be made to share means of vehicular access with abutting properties. Open parking areas shall not be located between the sidewalk and a principal building.

13. For the new construction of principal buildings in the CN-1, CN-2, and CN-3 Zones, ground level parking spaces, locker areas, mechanical rooms, and other non-active spaces shall not be located within thirty (30) feet from the front of the principal building except for incidental entrances to such activities elsewhere in the building. Exceptions to this regulation may be permitted by the Planning Director for utilities and trash enclosures that cannot be feasibly placed in other locations of the building. Driveways, garage entrances, or other access to parking and loading facilities may be located on the ground floor of this area as regulated by Note 12, above.

14. Unless otherwise specified in Section 17.103.080, one (1) parking space for the Secondary Unit is required in addition to any required parking spaces for the Primary Unit. Additional regulations that apply to Secondary Units are provided in Section 17.103.080.

B. **Height, Floor Area Ratio (FAR), Density, and Open Space.** Table 17.33.04 below prescribes height, FAR, density, and open space standards associated with the Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table. "N/A" designates a regulation is not applicable to the specified Height Area.

Table 17.33.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations

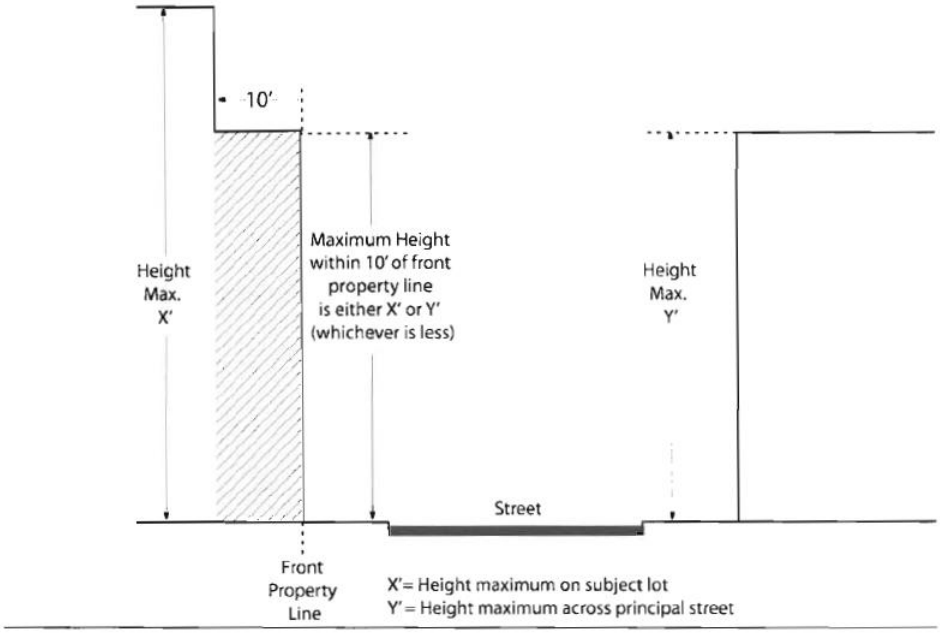
Regulation	**Height Area**						**Additional Regulations**
	35	**35***	**45**	**60**	**75**	**90**	
Maximum Height	35 ft.	35 ft.	45 ft.	60	75	90	1, 2

Regulation	Height Area						Additional Regulations
	35	**35***	**45**	**60**	**75**	**90**	
				ft.	ft.	ft.	
Height Minimum							
Permitted height minimum	N/A	N/A	N/A	35 ft.	35 ft.	35 ft.	3
Conditionally permitted height minimum	N/A	N/A	N/A	25 ft.	25 ft.	25 ft.	3
Maximum Residential Density (square feet of lot area required per dwelling unit)							
Regular units	550	Same density regulations as abutting RH, RD, or RM Zone	450	375	275	225	4, 5, 6
Rooming units	275	Same density regulations as abutting RH, RD, or RM Zone	225	185	135	110	4, 5, 6
Maximum Nonresidential FAR	2.0	NA	2.5	3.0	4.0	4.0	4, 5, 6
Maximum Number of Stories (not including underground construction)	3	3	4	5	7	8	
Usable Open Space (square feet per residential unit)							
Group usable open space per regular unit	150	Same density regulations as abutting RH, RD, or RM Zone	150	150	150	100	6, 7
Group usable open space per regular unit when private open space substituted	30	Same density regulations as abutting RH, RD, or RM Zone	30	30	30	20	6, 7
Group usable open space per Rooming unit	75	Same density regulations as abutting RH, RD, or RM Zone	75	75	75	50	6, 7
Group usable open space per rooming unit when private open space is substituted	15	Same density regulations as abutting RH, RD, or RM Zone	15	15	15	10	6, 7

Additional Regulations for Table 17.33.04:

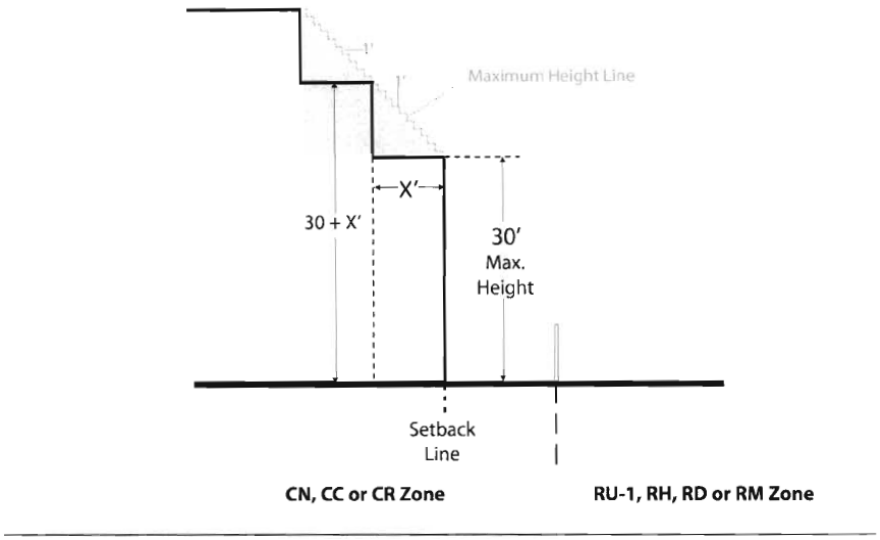
1. The maximum height within ten (10) feet of the front property line is either the height limit on the subject lot shown in the above table or the height maximum for the height area of the parcel directly across the principal street, whatever is less (see Illustration for Table 17.33.04 [Additional Regulation 1], below).

Illustration for Table 17.33.04 [Additional Regulation 1]
*for illustration purposes only



2. 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 an RH, RD, or RM Zone; this maximum height shall increase one (1) foot for every foot of distance away from this setback line (see Illustration for Table 17.33.04 [Additional Regulation 2], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

Illustration for Table 17.33.04 [Additional Regulation 2]
*for illustration purposes only



3. This minimum height requirement only applies to the new construction of a principal building that is located on parcels adjacent to a street right-of-way that is one hundred (100) feet wide or more. Buildings constructed to accommodate Essential Service, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities may be exempted from the height minimum regulation by the Planning Director. The allowed projections into the height limits contained in Section 17.108.030 are not counted towards the height minimum.

4. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one (1) Primary Unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

5. No portion of lot area used to meet the residential density requirements shall be used as a basis for computing the maximum nonresidential Floor Area Ratio (FAR) unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.

6. In the 35* height area, residential developments are subject to the same residential density and open space regulations as the adjacent RH, RD, or RM Zone. When there is more than one of these abutting zones, then the regulations of the zone allowing the greatest density shall apply.

7. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling unit. All usable open space shall meet the standards contained in Chapter 17.126.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

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17.33.060 Special regulations for Mini-Lot and Planned Unit Developments.

A. **Mini-Lot Developments.** In Mini-Lot Developments, certain regulations that apply to individual lots in the CN Zones may be waived or modified when and as prescribed in Chapter 17.142.

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 CN Zones, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.33.070 Other zoning provisions.

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

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

C. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.104, 17.106, and 17.108 shall apply in the CN Zones.

D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in CN Zones.

E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the CN Zones.

F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

Chapter 17.34 RESERVED [15]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.34, §§ 17.34.010—17.34.200 in its entirety, which pertained to C-5 neighborhood commercial zone regulations and derived from the prior planning code, §§ 4200, 4202—4212, 4214, 4215, 4219—4224; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.23, 5.34, 5.38, 5.44, 5.62, adopted 1996; Ord. No. 12016, § 2, adopted 1997; Ord. No. 12138, §§ 5, 6, adopted 1999; Ord. No. 12199, § 4G, adopted 2000; Ord. No. 12224, §§ 3, 4, adopted 2000; Ord. No. 12501, §§ 50, 52, adopted 2003; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.35 CC COMMUNITY COMMERCIAL ZONES REGULATIONS

Sections:

17.35.010 Title, intent, and description.

17.35.020 Required design review process.

17.35.030 Permitted and conditionally permitted activities.

17.35.040 Permitted and conditionally permitted facilities.

17.35.050 Property development standards.

17.35.060 Special regulations for mini-lot and Planned Unit Developments.

17.35.070 Other zoning provisions.

17.35.010 Title, intent, and description.

A. Intent. The provisions of this Chapter shall be known as the CC Community Commercial Zones Regulations. The intent of the Community Commercial (CC) Zones is to create, maintain and enhance areas suitable for a wide variety of commercial and institutional operations along the City's major corridors and in shopping districts or centers. These regulations shall apply to the CC Zones.

B. Description of Zones. This Chapter establishes land use regulations for the following three (3) zones:

1. **CC-1 Community Commercial - 1 Zone.** The CC-1 Zone is intended to create, maintain, and enhance shopping centers and malls with a wide range of consumer businesses.
2. **CC-2 Community Commercial - 2 Zone.** The CC-2 Zone is intended to create, maintain, and enhance areas with a wide range of commercial businesses with direct frontage and access along the City's corridors and commercial areas.
3. **CC-3 Community Commercial - 3 Zone.** The CC-3 Zone is intended to create, maintain, and enhance areas with a wide range of commercial and service activities.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.35.020 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.35.030 Permitted and conditionally permitted activities.

Table 17.35.01 lists the permitted, conditionally permitted, and prohibited activities in the CC Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.35.01: Permitted and Conditionally Permitted Activities

Activities	Zones			Additional Regulations
	CC-1	**CC-2**	**CC-3**	
Residential Activities				
Permanent	P(L2)(L3)	P(L2)(L3)	C(L3)	
Residential Care	P(L1)(L2)(L3)	P(L1)(L2)(L3)	C(L1)(L3)	17.103.010
Supportive Housing	P(L2)(L3)	P(L2)(L3)	C(L3)	
Transitional Housing	P(L2)(L3)	P(L2)(L3)	C(L3)	
Emergency Shelter	C(L1)(L3)	P(L4)	P(L4)	17.103.010
Semi-Transient	—	—	—	
Bed and Breakfast	C	C	C(L3)	17.10.125
Civic Activities				
Essential Service	P	P	P	
Limited Child-Care Activities	P	P	C	
Community Assembly	C	C	C	
Recreational Assembly	P	P	P	
Community Education	P	P	P	
Nonassembly Cultural	P	P	P	
Administrative	P	P	P	
Health Care	P	P	P	
Special Health Care	C(L5)	C(L5)	C(L5)	17.103.020
Utility and Vehicular	C	C	C	
Extensive Impact	C	C	C	

Activities	Zones			Additional Regulations
	CC-1	**CC-2**	**CC-3**	
Commercial Activities				
General Food Sales	P	P	P	
Full Service Restaurants	P	P	P	
Limited Service Restaurant and Cafe	P	P	P	
Fast-Food Restaurant	C	C	C	17.103.030 and 8.09
Convenience Market	C	C	C	17. 17.103.030
Alcoholic Beverage Sales	C	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	C	C	C	
Medical Service	P	P	P	
General Retail Sales	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	
Consumer Service	P(L6)	P(L6)	P(L6)	
Consultative and Financial Service	P	P	P	
Check Cashier and Check Cashing	C(L7)	C(L7)	C(L7)	17.103.040
Consumer Cleaning and Repair Service	P	P	P	
Consumer Dry Cleaning Plant	P	C	P	
Group Assembly	C(L8)	C(L8)	C(L8)	
Personal Instruction and Improvement Services	P	P	P	
Administrative	P	P	P	
Business, Communication, and Media Services	P	P	P	
Broadcasting and Recording Services	P	P	P	
Research Service	P	P	P	
General Wholesale Sales	—	—	P	
Transient Habitation	—	—	—	
Building Material Sales	—	—	P	
Automobile and Other Light Vehicle Sales and Rental	C	P(L9)	P	
Automobile and Other Light Vehicle Gas Station and Servicing	P	C	P	

Activities	Zones			Additional Regulations
	CC-1	**CC-2**	**CC-3**	
Automobile and Other Light Vehicle Repair and Cleaning	C(L10)	C(L10)	P	
Taxi and Light Fleet-Based Services	—	—	C	
Automotive Fee Parking	C	C	C	
Animal Boarding	C	C	C	
Animal Care	P	P	P	
Undertaking Service	—	—	—	
Industrial Activities				
Custom Manufacturing	C	C	P	
Light Manufacturing	—	C	P(L11)	
General Manufacturing	—	—	—	
Heavy/High Impact	—	—	—	
Research and Development	—	—	—	
Construction Operations	—	—	—	
Warehousing, Storage, and Distribution				
A. General Warehousing, Storage and Distribution	—	—	P	
B. General Outdoor Storage	—	—	—	
C. Self- or Mini-Storage	—	—	—	
D. Container Storage	—	—	—	
E. Salvage/Junk Yards	—	—	—	
Regional Freight Transportation	—	—	—	
Trucking and Truck-Related	—	—	—	
Recycling and Waste-Related				
A. Satellite Recycling Collection Centers	—	—	—	
B. Primary Recycling Collection Centers	—	—	—	
Hazardous Materials Production, Storage, and Waste Management-Related	—	—	—	
Agriculture and Extractive Activities				
Limited Agriculture	P(L12)	P(L12)	P(L12)	
Extensive Agriculture	C(L13)	C(L13)	C(L13)	
Plant Nursery	C	C	C	

Activities	Zones			Additional Regulations
	CC-1	**CC-2**	**CC-3**	
Mining and Quarrying	—	—	—	
Accessory off-street parking serving prohibited activities	C	C	C	17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone	C	C	C	17.102.110

Limitations on Table 17.35.01:

L1. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. Except as indicated in Subsection a. below, these activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on the ground floor of a building.

a. Buildings not located within twenty (20) feet of the principal street frontage and incidental pedestrian entrances that lead to one of these activities elsewhere in a building are exempted from this Conditional Use Permit requirement.

L3. See Section 17.35.040 for limitations on the construction of new Residential Facilities.

L4. Emergency Shelters are permitted by-right within those portions of San Pablo Avenue and Webster Street corridors described in Section 17.103.015(A)(2)(3) respectively and subject to the development standards in Section 17.103.015(B); permitted upon the granting of a Conditional Use Permit elsewhere in the zone subject to Limitations L1 and L3 above.

L5. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity, or five hundred (500) feet from any K-12 school or Licensed Emergency Shelters. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L6. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L7. No new or expanded Check Cashier and Check Cashing Commercial Activity shall be located closer than one thousand (1,000) feet from any other such activity or five hundred (500) feet from any Community Education, Community Assembly, or Recreational Assembly Civic Activity; State or Federally chartered bank, sayings association, credit union, or industrial loan company; or certain Alcoholic Beverage Sales Commercial Activities. See Section 17.103.040 for further regulations regarding Check Cashier and Check Cashing Commercial Activities.

L8. No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L9. Automobile and Other Light Vehicle Sales and Rental is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on West Grand Avenue between San Pablo Avenue and Linden Street, and Telegraph Avenue between 28th Street and 1-580.

L10. This Conditional Use Permit may only be granted 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:

1. That all repair and servicing is performed in an enclosed building;

2. That a minimum six (6) foot tall masonry or decorative screening wall is provided at all parcels lines adjacent to an RH, RD or RM Zone;

3. That a landscape buffering is at all parcels lines adjacent to an RH, RD or RM Zone; and

4. That no auto repair activities shall be conducted before 7:00 a.m. or after 9:00 p.m. on any day of the week.

L11. This activity is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on a lot that is within three hundred (300) feet of an RH, RD, or RM Zone.

L12. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure).

L13. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.35.040 Permitted and conditionally permitted facilities.

Table 17.35.02 lists the permitted, conditionally permitted, and prohibited facilities in the CC Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

Table 17.35.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones			Additional Regulations
	CC-1	**CC-2**	**CC-3**	
Residential Facilities				
One-Family Dwelling	—(L1)	—(L1)	—(L1)(L7)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	—(L1)(L7)	17.103.080
Two-Family Dwelling	P(L2)	P(L3)	—(L7)	
Multifamily Dwelling	P(L2)	P(L3)	—(L7)	
Rooming House	P(L2)	P(L3)	—(L7)	
Mobile Home	—	—	—(L7)	
Nonresidential Facilities				
Enclosed Nonresidential	P	P	P	
Open Nonresidential	P(L6)	P(L6)	P(L6)	
Sidewalk Cafe	P	P	P	17.103.090
Drive-In	C	C	C	
Drive-Through	C(L4)	C(L4)	C(L4)	
Telecommunications Facilities				
Micro Telecommunications	P(L5)	P(L5)	P(L5)	17.128
Mini Telecommunications	P(L5)	P(L5)	P(L5)	17.128
Macro Telecommunications	C	C	C	17.128
Monopole Telecommunications	C	C	C	17.128
Tower Telecommunications	—	—	—	17.128
Sign Facilities				
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

Limitations on Table 17.35.02:

L1. See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit may be permitted when there is no more than one (1) existing Primary Unit on a lot, subject to the provisions of Section 17.103.080.

L2. Construction of new ground floor Residential Facilities is only permitted if part of a development that has a majority of floor area is devoted to commercial activities.

L3. Except as indicated in Subsection a. below, construction of new ground floor Residential Facilities is not permitted:

a. Buildings not located within twenty (20) feet of the principal street frontage and incidental pedestrian entrances that lead to one of these activities elsewhere in a building are exempted from this requirement.

L4. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

L5. See Section 17.128.025 for restrictions on Telecommunication Facilities near Residential Zones, HBX Zones, or D-CE-3 or D-CE-4 Zones.

L6. For the CC Zones in the West Oakland District (defined for the purposes of this Chapter as all areas between Interstate 980 to the east, Interstate 880 to the south and west, and Interstate 580 to the north), Open Nonresidential Facilities accommodating activities other than Civic Activities, Limited Agriculture, seasonal sales, or special events are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L7. All new Residential Facilities are prohibited in the CC-3 Zone, except those serving a permitted or conditionally permitted Emergency Shelter Activity as indicated in Table 17.35.01.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.35.050 Property development standards.

A. Zone Specific Standards. Table 17.35.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates a standard is not applicable to the specified zone.

Table 17.35.03: Property Development Standards

Development Standards	Zones			Additional Regulations
	CC-1	**CC-2**	**CC-3**	
Minimum Lot Dimensions				
Lot Width mean	50 ft.	25 ft.	25 ft.	1
Frontage	50 ft.	25 ft.	25 ft.	1

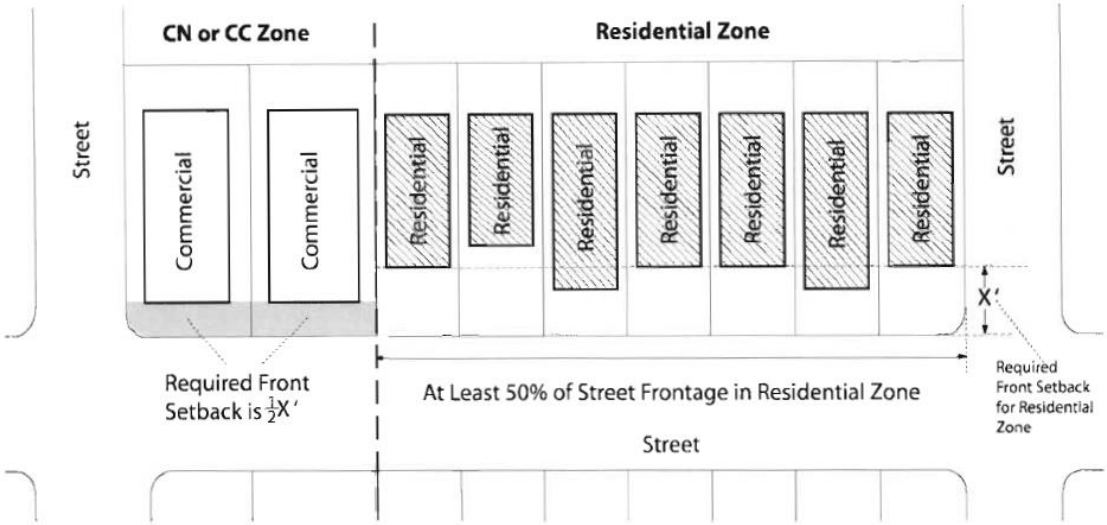
Development Standards	Zones			Additional Regulations
	CC-1	**CC-2**	**CC-3**	
Lot area	7,500 sf.	4,000 sf.	4,000 sf.	1
Minimum/Maximum Setbacks				
Minimum front	0 ft.	0 ft.	0 ft.	2
Maximum front	N/A	10 ft.	N/A	3
Minimum interior side	0 ft.	0 ft.	0 ft.	4, 5
Minimum street side	0 ft.	0 ft.	0 ft.	6
Rear (Residential Facilities)	10/15 ft.	10/15 ft.	10/15 ft.	7, 8
Rear (Nonresidential Facilities)	0/10/15 ft.	0/10/15 ft.	0/10/15 ft.	8
Design Regulations				
Minimum ground floor nonresidential facade transparency	N/A	55%	N/A	9
Minimum height of ground floor Nonresidential Facilities	N/A	12 ft.	N/A	10
Parking and driveway location requirements	No	Yes	No	11
Ground floor active space requirement	No	Yes	No	12
Height, Floor Area Ratio, Density, and Open Space Regulations	See Table 17.35.04			
Minimum Required Parking	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking requirements			13
Courtyard Regulations	See Section 17.108.120			

Additional Regulations for Table 17.35.03:

1. See Section 17.106.010 and 17.106.020 for exceptions to lot area, lot width mean, and street frontage regulations.

2. If fifty percent (50%) or more of the frontage on one side of the street between two intersecting streets is in any Residential Zone and all or part of the remaining frontage is in any commercial or industrial zone, the required front setback of the commercially or industrially zoned lots is one-half (½) of the minimum front setback required in the Residential Zone. If fifty percent (50%) or more of the total frontage is in more than one Residential Zone, then the minimum front setback on the commercially or industrially zoned lots is one-half (½) of that required in the Residential Zone with the lesser front setback (see Illustration for Table 17.35.03 [Additional Regulation 2], below).

Illustration for Table 17.35.03 [Additional Regulation 2]
*for illustration purposes only



3. The following notes apply to the maximum front yard requirement:

a. The requirements only apply to the construction of new principal buildings; and if multiple new principal buildings are to be constructed on a lot, the requirements only apply to the building(s) that can be reasonably sited along the street frontage(s).

b. The requirements do not apply to lots containing the following principal activities: Recreational Assembly, Community Education, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities as principal activities.

c. Maximum yards apply to seventy-five percent (75%) of the street frontage on the principal street and fifty percent (50%) on other streets, if any. All percentages, however, may be reduced to fifty percent (50%) upon the granting of Regular Design Review (see Chapter 17.136 for the design review procedure). In addition to the criteria contained in Section 17.136.050, a proposal to reduce to fifty percent (50%) the amount of street frontage that maximum yards would apply to must also meet each of the following criteria:

i. The additional yard area abutting the principal street is designed to accommodate publicly accessible plazas, sidewalk cafes, or restaurants;

ii. The proposal will not impair a generally continuous wall of building facades;

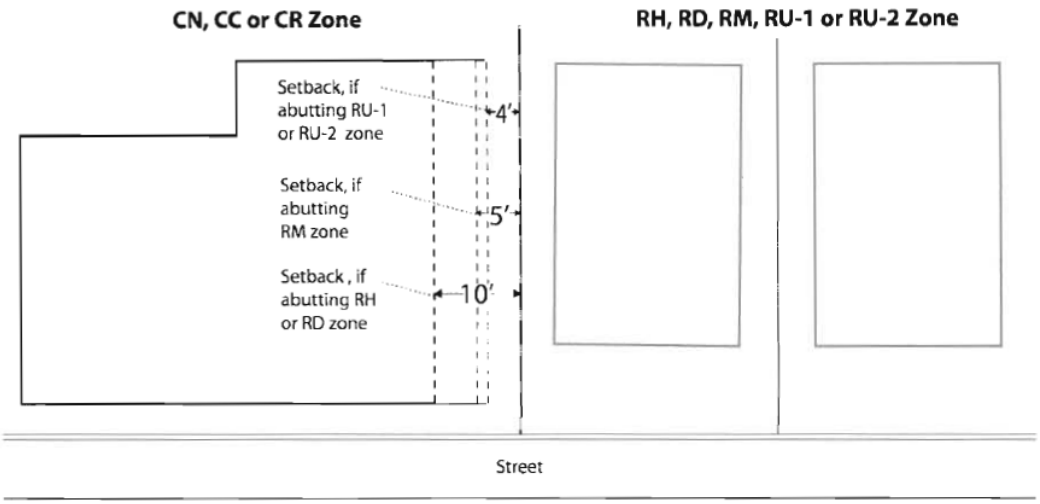
iii. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and

iv. The proposal will not interfere with the movement of people along an important pedestrian street.

4. Wherever an interior side lot line abuts an interior side lot line of any lot located in an RH or RD Zone, the setback of the abutting portion of its side lot line is ten (10) feet. In the case where an interior side lot line abuts an interior side lot line in an RM Zone, the setback of the abutting

portion of its side lot line is five (5) feet. In the case where an interior side lot line abuts a side yard of an RU-1 or RU-2 lot, a side setback of four (4) feet is required (see Illustration for Table 17.35.03 [Additional Regulation 4], below). Also, see Section 17.108.130 for allowed projections into setbacks.

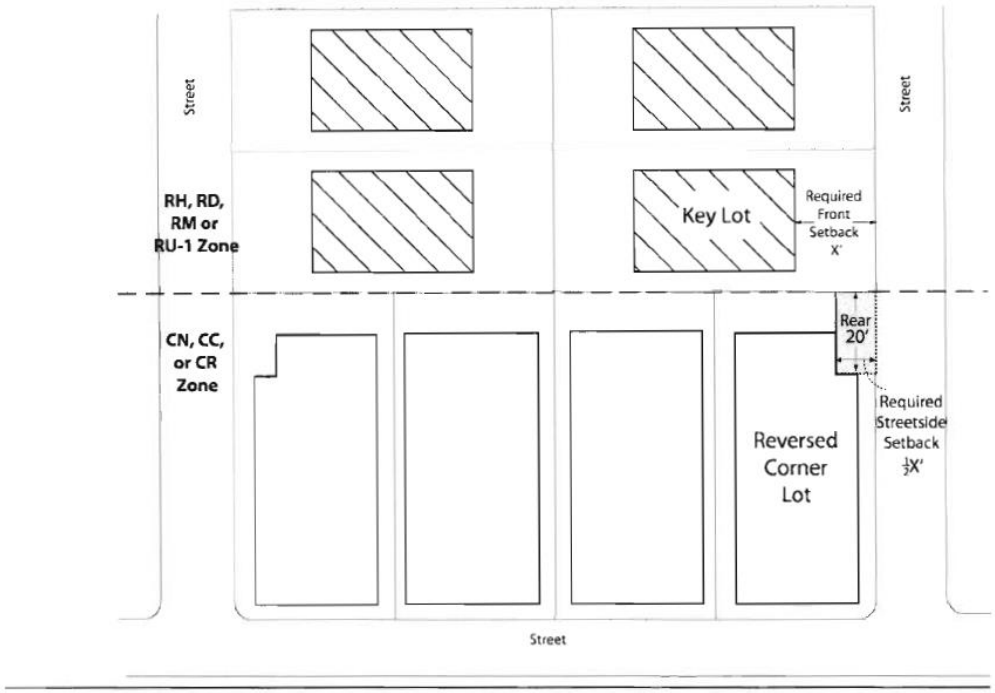
Illustration for Table 17.35.03 [Additional Regulation 4]
*for illustration purposes only



5. See Section 17.108.080 for the required interior side and rear yard setbacks on a lot containing two or more living units and opposite a legally required living room window.

6. When the rear yard of a reversed corner lot abuts a key lot that is in an RH, RD, or RM Zone, the required street side yard setback in the rear twenty (20) feet of the reversed corner lot is one-half (½) of the minimum front yard required on the key lot (see Illustration for Table 17.33.03 [Additional Regulation 6], below). Also, see Section 17.108.130 for allowed projections into the setbacks.

Illustration for Table 17.35.03 [Additional Regulation 6]
*for illustration purposes only

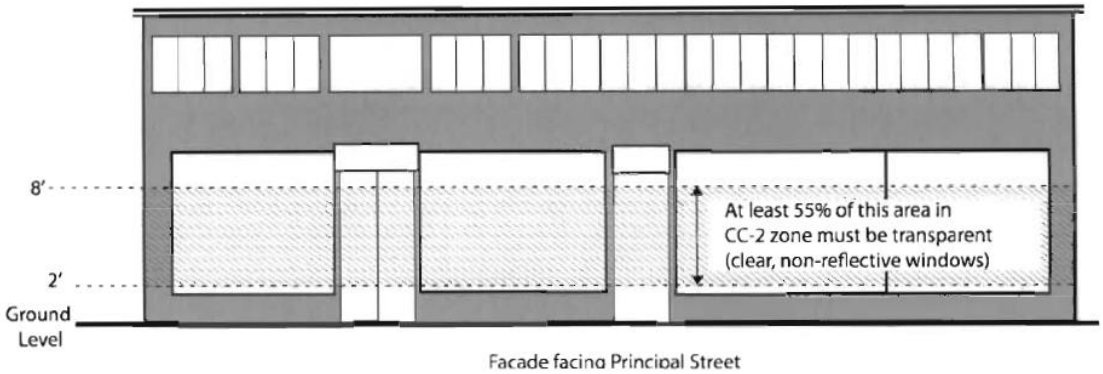


7. Wherever a rear lot line abuts an alley, one-half (½) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

8. When a rear lot line is adjacent to an RH, RD, or RM Zone, the required rear setback for both Residential and Nonresidential Facilities is ten (10) feet if the lot depth is one hundred (100) feet or less and fifteen (15) feet if the lot depth is more than one hundred (100) feet. When a rear lot line is not adjacent to an RH, RD, or RM Zone, the required rear setback is ten (10) feet for Residential Facilities and there is no required setback for Nonresidential Facilities.

9. This percentage of transparency is only required for principal buildings that include ground floor Nonresidential Facilities, and only applies to facades facing the principal street. The regulations only apply to facades located within twenty (20) feet of a street frontage. The area of required transparency is between two (2) feet and nine (9) feet in height of the ground floor and must be comprised of clear, non-reflective windows that allow views out of indoor commercial space, residential space, or lobbies (see Illustration for Table 17.35.03 [Additional Regulation 9], below). Areas required for garage doors shall not be included in the calculation of facade area (see Note 12 for limitations on the location of parking access). Glass block does not qualify as a transparent window. Exceptions to this regulation may be allowed by the Planning Director for unique facilities such as convention centers, gymnasiums, parks, gas stations, theaters and other similar facilities.

Illustration for Table 17.35.03 [Additional Regulation 9]
*for illustration purposes only



10. This height is only required for new principal buildings located within twenty (20) feet of the principal street frontage and is measured from the sidewalk grade to the ground floor ceiling.

11. For the construction of new principal buildings in the CC-2 Zone, access to parking and loading facilities through driveways, garage doors, or other means shall not be from the principal street when alternative access is feasible from another location such as a secondary frontage or an alley. Where this is not feasible, every reasonable effort shall be made to share means of vehicular access with abutting properties. Open parking areas shall not be located between the sidewalk and a principal building.

12. For the construction of new principal buildings in the CC-2 Zone, ground level parking spaces, locker areas, mechanical rooms, and other non-active spaces shall not be located within thirty (30) feet of the principal street except for incidental entrances to such activities elsewhere in the building. Exceptions to this regulation may be permitted by the Planning Director for non-active spaces that cannot be feasibly placed in other locations of the building. Driveways, garage entrances, or other access to parking and loading facilities may be located on the ground floor of this area as regulated by Note 11, above.

13. Unless otherwise specified in Section 17.103.080, one (1) parking space for the Secondary Unit is required in addition to any required parking spaces for the Primary Unit. Additional regulations that apply to Secondary Units are provided in Section 17.103.080.

C. **Height, Floor Area Ratio (FAR), Density, and Open Space.** Table 17.35.04 below prescribes height, FAR, density, and open space standards associated with the Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table. "N/A" designates a regulation is not applicable to the specified Height Area.

Table 17.35.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations

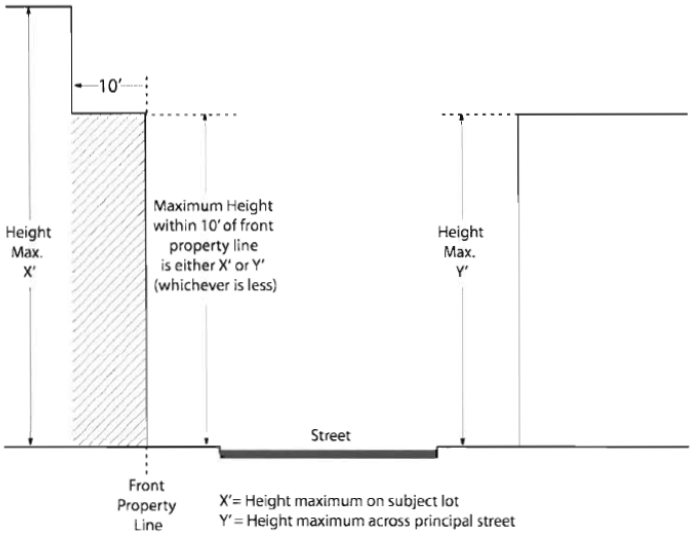
Regulation	Height Area							Additional Regulations
	35	**45**	**60**	**75**	**90**	**120**	**160**	
Maximum Height	35 ft.	45 ft.	60 ft.	75 ft.	90 ft.	120 ft.	160 ft.	1, 2

Regulation	Height Area							Additional Regulations
	35	**45**	**60**	**75**	**90**	**120**	**160**	
Height Minimum								
Permitted height minimum	N/A	N/A	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	3
Conditionally permitted height minimum	N/A	N/A	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	3
Maximum Residential Density (square feet of lot area required per dwelling unit)								
Regular units	550	450	375	275	225	225	225	4, 5
Rooming units	275	225	185	135	110	110	110	4, 5
Maximum Nonresidential FAR	2.0	2.5	3.0	4.0	4.5	5.0	5.0	4, 5
Maximum number of stories (not including underground construction)	3	4	5	7	8	11	15	
Minimum Usable Open Space								
Group usable open space per regular unit	150	150	150	150	100	100	100	6
Group usable open space per regular unit when private open space substituted	30	30	30	30	20	20	20	6
Group usable open space per rooming unit	75	75	75	75	50	50	50	6
Group usable open space per rooming unit when private open space is substituted	15	15	15	15	10	10	10	6

Additional Regulations for Table 17.35.04:

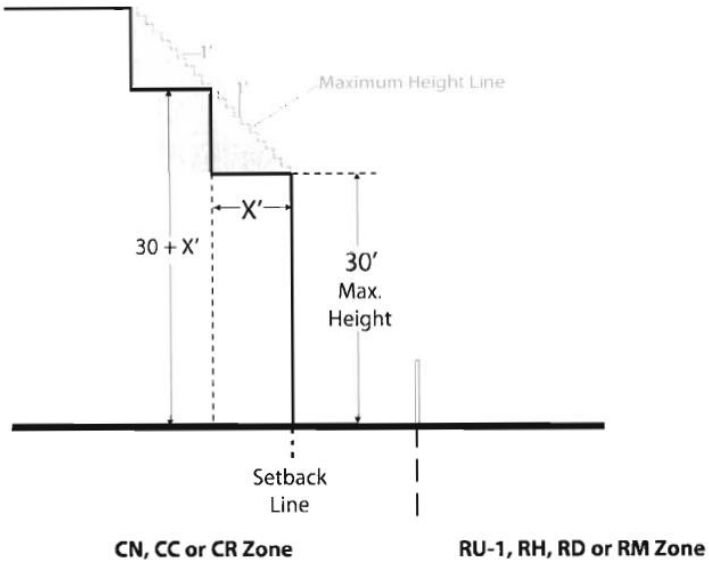
1. The maximum height within ten (10) feet of the front property line is either the height limit on the subject lot shown in the above table or the height maximum for the height area of the parcel directly across the principal street, whatever is less (see Illustration for Table 17.35.04 [Additional Regulation 1], below).

Illustration for Table 17.35.04 [Additional Regulation 1]
*for illustration purposes only



2. 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 an RH, RD, or RM Zone; this maximum height shall increase one foot for every foot of distance away from this setback line (see Illustration for Table 17.35.04 [Additional Regulation 2], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

Illustration for Table 17.35.04 [Additional Regulation 2]
*for illustration purposes only



3. This minimum height requirement only applies to the new construction of a principal building that is located on parcels adjacent to a street right-of-way that is one hundred (100) feet wide or more. Buildings in the CC-1 Zone and buildings constructed to accommodate Essential Service, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Automobile and Other Light Vehicle Sales and Rental, Automobile and Other Light Vehicle Gas Station and Servicing or Automobile and Other Light Vehicle Repair and Cleaning Commercial Activities may be exempted from the height minimum regulation by the Planning Director. The allowed projections into the height limits contained in Section 17.108.030 are not counted towards the height minimum.

4. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one (1) Primary Unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

5. No portion of lot area used to meet the residential density requirements shall be used as a basis for computing the maximum nonresidential FAR unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.

6. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling unit. All usable open space shall meet the standards contained in Chapter 17.126.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.35.060 Special regulations for Mini-Lot and Planned Unit Developments.

A. **Mini-Lot Developments.** In Mini-Lot Developments, certain regulations that apply to individual lots in the CC Zones may be waived or modified when and as prescribed in Chapter 17.142.

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 CC Zones, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.35.070 Other zoning provisions.

A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112. See Section 17.112.060 for home occupation regulations specific to the West Oakland Specific Plan Area.

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

C. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.104, 17.106, and 17.108 shall apply in the CC Zones.

D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the CN Zones.

E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the CC Zones.

F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

Chapter 17.36 RESERVED [16]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.36, §§ 17.36.010—17.36.190 in its entirety, which pertained to C-10 local retail commercial zone regulations and derived from the prior planning code, §§ 4250, 4252—4259, 4263—4265, 4269—4274; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.24, 5.34, 5.39, 5.45, 5.60, adopted 1996; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12199, § 4F, adopted 2000; Ord. No. 12224, §§ 3, 4, adopted 2000; Ord. No. 12501, § 54, adopted 2003; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.37 CR REGIONAL COMMERCIAL ZONES REGULATIONS

Sections:

17.37.010 Title, intent, and description.

17.37.020 Required design review process.

17.37.030 Permitted and conditionally permitted activities.

17.37.040 Permitted and conditionally permitted facilities.

17.37.050 Property development standards.

17.37.060 Special regulations for mini-lot and Planned Unit Developments.

17.37.070 Other zoning provisions.

17.37.010 Title, intent, and description.

The provisions of this Chapter shall be known as the CR Regional Commercial Zones Regulations. The intent of the Regional Commercial (CR) Zones is to maintain, support and create areas of the City that serve as region-drawing centers of activities.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.37.020 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.37.030 Permitted and conditionally permitted activities.

Table 17.37.01 lists the permitted, conditionally permitted, and prohibited activities in the CR Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.37.01: Permitted and Conditionally Permitted Activities

Activities	Zone	Additional Regulations
	CR-1	
Residential Activities		
Permanent	—	
Residential Care	—	
Supportive Housing	—	
Transitional Housing	—	
Emergency Shelter	C(L1)	17.103.010
Semi-Transient	C(L1)	
Bed and Breakfast	—	
Civic Activities		
Essential Service	P	
Limited Child-Care Activities	P	
Community Assembly	P	
Recreational Assembly	P	
Community Education	C	
Nonassembly Cultural	P	
Administrative	P	
Health Care	C	
Special Health Care	C(L2)	17.103.020
Utility and Vehicular	C	
Extensive Impact	C	
Commercial Activities		
General Food Sales	P	
Full Service Restaurants	P	
Limited Service Restaurant and Cafe	P	
Fast-Food Restaurant	C	17.103.030 and 8.09
Convenience Market	C	17.103.030
Alcoholic Beverage Sales	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	C	

Activities	Zone	Additional Regulations
	CR-1	
Medical Service	P	
General Retail Sales	P	
Large-Scale Combined Retail and Grocery Sales	—	
Consumer Service	P(L3)	
Consultative and Financial Service	P	
Check Cashier and Check Cashing	—	
Consumer Cleaning and Repair Service	P(L4)	
Consumer Dry Cleaning Plant	C	
Group Assembly	C(L6)	
Personal Instruction and Improvement Services	P	
Administrative	P	
Business, Communication, and Media Services	P	
Broadcasting and Recording Services	P	
Research Service	P	
General Wholesale Sales	C	
Transient Habitation	C	17.103.050
Building Material Sales	P(L4)	
Automobile and Other Light Vehicle Sales and Rental	P(L4)	
Automobile and Other Light Vehicle Gas Station and Servicing	P(L4)	
Automobile and Other Light Vehicle Repair and Cleaning	P(L4)	
Taxi and Light Fleet-Based Services	P(L4)(L5)	
Automotive Fee Parking	—(L7)	
Animal Boarding	C	
Animal Care	P	
Undertaking Service	—	
Industrial Activities		
Custom Manufacturing	P(L4)	
Light Manufacturing	P(L4)	
General Manufacturing	C(L4)(L5)	
Heavy/High Impact	—	
Research and Development	P	

Activities	Zone	Additional Regulations
	CR-1	
Construction Operations	—	
Warehousing, Storage, and Distribution-Related		
A. General Warehousing, Storage and Distribution	P(L4)(L5)	
B. General Outdoor Storage	C(L4)(L5)	
C. Self- or Mini-Storage	C(L4)(L5)	
D. Container Storage	C(L4)(L5)	
E. Salvage/Junk Yards	—	
Regional Freight Transportation	C(L4)(L5)	
Trucking and Truck-Related	C(L4)(L5)	
Recycling and Waste-Related		
A. Satellite Recycling Collection Centers	C(L4)	
B. Primary Recycling Collection Centers	C(L4)(L5)	17.103.060
Hazardous Materials Production, Storage, and Waste Management-Related	—	
Agriculture and Extractive Activities		
Limited Agriculture	P(L4)(L8)	
Extensive Agriculture	C(L4)(L9)	
Plant Nursery	C(L4)	
Mining and Quarrying	—	
Accessory off-street parking serving prohibited activities	P	17.116.075
Activities that are listed as prohibited but are permitted or conditionally permitted on nearby lots in an adjacent zone	C	17.102.110

Limitations on Table 17.37.01:

L1. No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding these Activities.

L2. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity, or five hundred (500) feet from any K-12 school or Licensed Emergency Shelters. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L3. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L4. These activities are not permitted within three hundred (300) feet of a lot line adjacent to the Hegenberger Road right-of-way.

L5. These activities are not permitted within three hundred (300) feet of a lot line adjacent to the Mandela Parkway and Yerba Buena Avenue right-of-way.

L6. No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L7. Existing fee parking lots may be reconfigured to increase the number of parking spaces and make more efficient use of the existing parking area. Expansion of existing facilities to include structured parking or expanding the size of the parcel with the parking constitutes an expansion of a nonconforming use and is not permitted.

L8. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure).

L9. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.37.040 Permitted and conditionally permitted facilities.

Table 17.37.02 lists the permitted, conditionally permitted, and prohibited facilities in the CR Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

Table 17.37.02: Permitted and Conditionally Permitted Facilities

Facilities	Zone	Additional Regulations
	CR-1	
Residential Facilities		
One-Family Dwelling	—(L1)	
One-Family Dwelling with Secondary Unit	—(L1)	
Two-Family Dwelling	—(L1)	
Multifamily Dwelling	—(L1)	
Rooming House	—(L1)	
Mobile Home	—(L1)	
Nonresidential Facilities		
Enclosed Nonresidential	P	
Open Nonresidential	P	
Sidewalk Cafe	P	17.103.090
Drive-In	C	
Drive Through	C	
Telecommunications Facilities		
Micro Telecommunications	P(L2)	17.128
Mini Telecommunications	P(L2)	17.128
Macro Telecommunications	C	17.128
Monopole Telecommunications	C	17.128
Tower Telecommunications	—	17.128
Sign Facilities		
Residential Signs	P	17.104
Special Signs	P	17.104
Development Signs	P	17.104
Realty Signs	P	17.104
Civic Signs	P	17.104
Business Signs	P	17.104
Advertising Signs	—	17.104

Limitations for Table 17.37.02:

L1. See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming residential facilities.

L2. See Section 17.128.025 for restrictions on Telecommunication Facilities near Residential Zones, HBX Zones, or D-CE-3 or D-CE-4 Zones.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.37.050 Property development standards.

A. **Zone Specific Standards.** Table 17.37.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

Table 17.37.03: Property Development Standards

Development Standards	CR-1 Zone	Additional Regulations
Minimum Lot Dimensions		
Lot Width mean	50 ft.	1
Frontage	50 ft.	1
Lot area	7,500 sf.	1
Minimum/Maximum Setbacks		
Minimum front	20 feet on parcels facing a right-of-way of 100 ft. or more; 10 feet on parcels facing a right-of-way that is less than 100 feet wide.	2
Minimum interior side	0 ft.	3
Minimum street side	0 ft.	4
Rear	0/10/15 ft.	5
Height and Floor Area Ratio Regulations	See Table 17.37.04	
Minimum Required Parking	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking requirements	

Additional Regulations for Table 17.37.03:

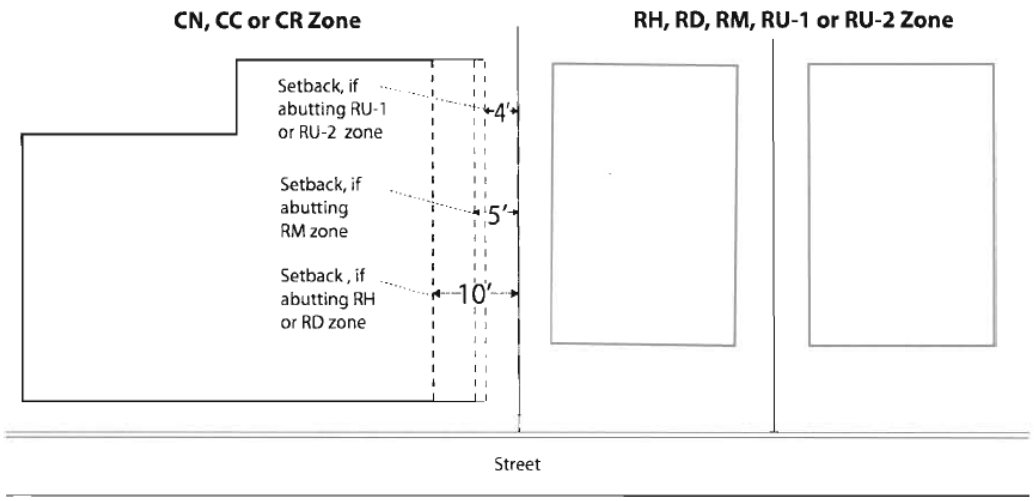
1. See Section 17.106.010 and 17.106.020 for exceptions to lot area, lot width mean, and street frontage regulations.

2. Hegenberger Road, 98th Avenue, and Edgewater Drive each have a right-of-way width of one hundred (100) feet or more. This minimum front yard setback area shall, except for necessary driveways, walkways, and allowable signs, be developed as open landscaped areas with lawn, ground cover, garden, shrubs, trees, or decorative paving materials, subject to the

standards for required landscaping and screening in Chapter 17.124. Further, if fifty percent (50%) or more of the frontage on one side of the street between two intersecting streets is in any Residential Zone and all or part of the remaining frontage is in any Commercial or Industrial Zone, the required front setback of the commercially or industrially zoned lots is one-half (½) of the minimum front setback required in the Residential Zone. If fifty percent (50%) or more of the total frontage is in more than one Residential Zone, then the minimum front setback on the commercially or industrially zoned lots is one-half (½) of that required in the Residential Zone with the lesser front setback.

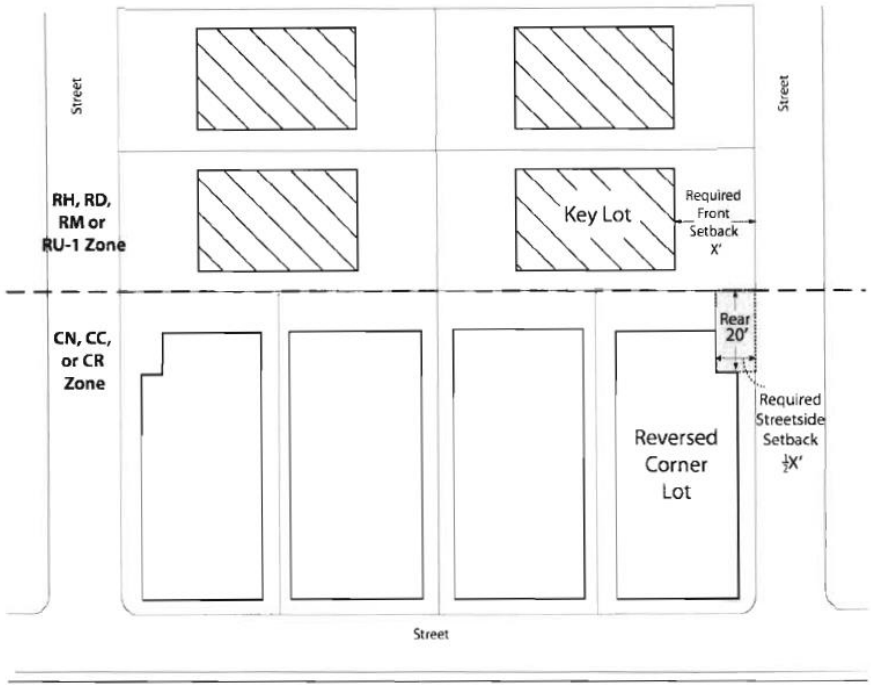
3. Wherever an interior side lot line abuts an interior side lot line of any lot located in an RH or RD Zone, the setback of the abutting portion of its side lot line is ten (10) feet. In the case where an interior side lot line abuts an interior side lot line in an RM Zone, the setback of the abutting portion of its side lot line is five (5) feet. In the case where an interior side lot line abuts a side yard of an RU-1 or RU-2 lot, a side setback of four (4) feet is required (see Illustration for Table 17.37.03 [Additional Regulation 3], below). Also, see Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.37.03 [Additional Regulation 3]
*for illustration purposes only



4. When the rear yard of a reversed corner lot abuts a key lot that is in an RH, RD, or RM Zone, the required street side yard setback in the rear twenty (20) feet of the reversed corner lot is one-half (½) of the minimum front yard required on the key lot. (see Illustration for Table 17.37.03 [Additional Regulation 4], below) Also, see Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.37.03 [Additional Regulation 4]
*for illustration purposes only



5. When a rear lot line is adjacent to an RH, RD, or RM Zone, the required rear setback is ten (10) feet if the lot depth is one-hundred (100) feet or less and fifteen (15) feet if the lot depth is more than one-hundred (100) feet. When a rear lot line is not adjacent to an RH, RD, or RM Zone, there is no required setback.

B. Height and Floor Area Ratio (FAR). Table 17.37.04 below prescribes height and FAR standards associated with the Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table.

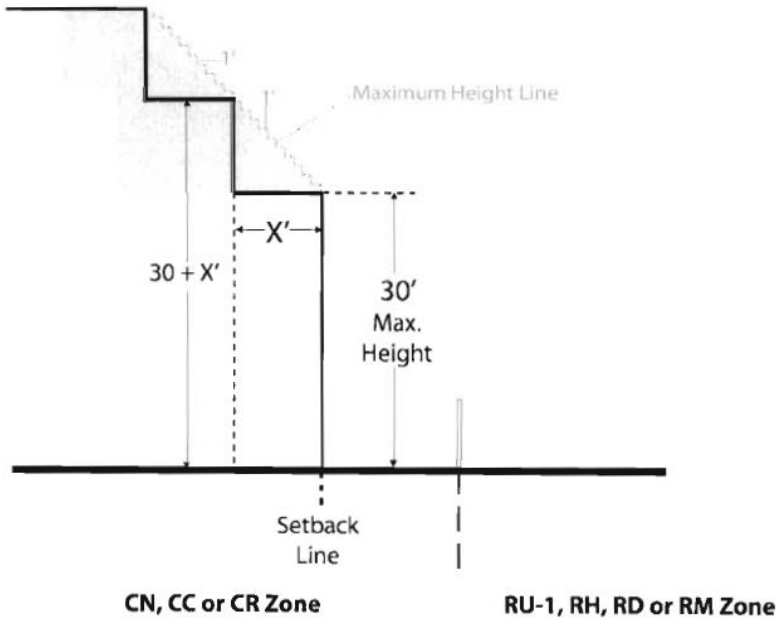
Table 17.37.04 Height, Floor Area Ratio (FAR), and Open Space Regulations

Regulation	Height Area							Additional Regulations
	35	**45**	**60**	**75**	**90**	**120**	**160**	
Maximum Height	35 feet	45 feet	60 feet	75 feet	90 feet	120 feet	160 feet	1
Maximum Nonresidential FAR	2.0	2.5	3.0	4.0	4.0	4.0	4.0	
Maximum Number of Stories (not including underground construction)	3	4	5	7	8	11	15	

Additional Regulations for Table 17.37.04:

1. The height of all structures is subject to Federal Aviation Administration regulations. Also, 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 an RH, RD, or RM Zone; this maximum height shall increase one foot for every foot of distance away from this setback line (see Illustration for Table 17.37.04 [Additional Regulation 1], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

Illustration for Table 17.37.04 [Additional Regulation 1]
*for illustration purposes only



(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.37.060 Special regulations for Mini-Lot and Planned Unit Developments.

A. **Mini-Lot Developments.** In Mini-Lot Developments, certain regulations that apply to individual lots in the CR Zones may be waived or modified when and as prescribed in Chapter 17.142.

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 CR Zones, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.37.070 Other zoning provisions.

A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112. See Section 17.112.060 for home occupation regulations specific to the West Oakland Specific Plan Area.

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

C. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.104, 17.106, and 17.108 shall apply in the CR Zones.

D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the CR Zones.

E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the CR Zones.

F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

Chapter 17.38 RESERVED [17]

FOOTNOTE(S):

--- (**17**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.38, §§ 17.38.010—17.38.170 in its entirety, which pertained to C-20 shopping center commercial zone regulations and derived from the prior planning code, §§ 4300, 4302—4306, 4308, 4309, 4313—4315, 4319—4324; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.25, 5.35, 5.40, 5.46, 5.63, adopted 1996; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12199, § 4F, adopted 2000; Ord. No. 12224, § 4, adopted 2000; Ord. No. 12501, §§ 55, 57, adopted 2003; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12626, § 4, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.40 RESERVED [18]

FOOTNOTE(S):

--- (**18**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.40, §§ 17.40.010—17.40.210 in its entirety, which pertained to C-25 office commercial zone regulations and derived from the prior planning code, §§ 4350, 4352—4359, 4361, 4363—4365, 4367, 4369—4374; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.26, 5.34, 5.38, 5.47, 5.62; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12224, §§ 3, 4, adopted 2000; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12626, § 4, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.42 RESERVED [19]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.42, §§ 17.42.010—17.42.200 in its entirety, which pertained to C-27 village commercial zone regulations and derived from the prior planning code, §§ 4400, 4402—4409, 4411, 4413—4415, 4419—4424; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.27, 5.34, 5.38, 5.48, 5.62, adopted 1996; Ord. No. 12138, §§ 5, 6, adopted 1999; Ord. No. 12224, §§ 3, 4, adopted 2000; Ord. No. 12450, § 4, adopted 2002; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.44 RESERVED [20]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.44, §§ 17.44.010—17.44.210 in its entirety, which pertained to C-28 commercial shopping district zone regulations and derived from the prior planning code, §§ 4425, 4427—4436, 4438—4441, 4444—4449; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11892, § 3, adopted 1996; Ord. No. 11904, §§ 5.28, 5.34, 5.38, 5.49, 5.62, adopted 1996; Ord. No. 12016, § 2, adopted 1997; Ord. No. 12138, §§ 5, 6, adopted 1999; Ord. No. 12224, §§ 3, 4, adopted 2000; Ord. No. 12450, § 5, adopted 2002; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.46 RESERVED [21]

FOOTNOTE(S):

--- (**21**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.46, §§ 17.46.010—17.46.200 in its entirety, which pertained to C-30 district thoroughfare commercial zone regulations and derived from the prior planning code, §§ 4450, 4452.1, 4453—4456, 4458, 4459, 4463—4465, 4469—4474; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11854, §§ 3, 4, adopted 1996; Ord. No. 11904, §§ 5.29, 5.36, 5.38, 5.50, 5.60, adopted 1996; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12224, §§ 3, 4, adopted 2000; Ord. No. 12450, § 6, adopted 2002; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12626, § 4, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.48 RESERVED [22]

FOOTNOTE(S):

--- (**22**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.48, §§ 17.48.010—17.48.190 in its entirety, which pertained to C-31 special retail commercial zone regulations and derived from the prior planning code, §§ 4475, 4477—4484, 4486, 4488—4490, 4494—4499; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.30, 5.34, 5.38, 5.51, 5.62, adopted 1996; Ord. No. 12016, § 2, adopted 1997; Ord. No. 12138, §§ 5, 6, adopted 1999; Ord. No. 12224, §§ 3, 4, adopted 2000; Ord. No. 12450, § 7, adopted 2002; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.50 RESERVED [23]

FOOTNOTE(S):

--- (**23**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.50, §§ 17.50.010—17.50.210 in its entirety, which pertained to C-35 district shopping commercial zone regulations and derived from the prior planning code, §§ 4500, 4502.1, 4503—4509, 4513—4515, 4517, 4519—4524; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.30, 5.36, 5.41, 5.52, 5.60, adopted 1996; Ord. No. 12021, § 2, adopted 1997; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12224, §§ 3, 4, adopted 2000; Ord. No. 12450, § 8, adopted 2002; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12626, § 4, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.52 RESERVED [24]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.52, §§ 17.52.010—17.52.200 in its entirety, which pertained to C-36 gateway boulevard service commercial zone regulations and derived from the prior planning code, §§ 4525, 4527.1, 4528, 4529—4531, 4533, 4534, 4538, 4539, 4542, 4544, 4545, 4547—4549; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11904, §§ 5.30, 5.37, 5.42, 5.53, 5.60, adopted 1996; Ord. No. 12076, § 3, adopted 1998; Ord. No. 12224, §§ 3, 4, adopted 2000; Ord. No. 12266, § 5, adopted 2000; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.54 C-40 COMMUNITY THOROUGHFARE COMMERCIAL ZONE REGULATIONS

Sections:

17.54.010 Title, purpose, and applicability.

17.54.040 Required design review process.

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17.54.060 Conditionally permitted activities.

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17.54.090 Special regulations applying to certain activities.

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17.54.110 Limitations on Signs.

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17.54.170 Minimum usable open space.

17.54.180 Buffering and landscaping.

17.54.190 Special regulations for mini-lot and Planned Unit Developments.

17.54.200 Other zoning provisions.

17.54.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the C-40 Community Thoroughfare Commercial Zone Regulations. The Community Thoroughfare Commercial (C-40) Zone is intended to create, preserve, and enhance areas with a wide range of both retail and wholesale establishments serving both short and long term needs in convenient locations, and is typically appropriate along major thoroughfares. These regulations shall apply in the C-40 Zone.

(Prior planning code § 4550)

17.54.040 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11904 § 5.60 (part), 1996: prior planning code § 4552.1)

17.54.050 Permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, are permitted:

A. Residential Activities:

Permanent

Residential Care occupying a One-Family Dwelling Residential Facility

Supportive Housing

Transitional Housing

Semi-Transient

Emergency Shelter (Emergency Shelters are permitted by-right within the area surrounding the Third Street corridor described in Section 17.103.015(A)(5) and subject to the development standards in Section 17.103.015(B); permitted upon the granting of a Conditional Use Permit elsewhere in the zone.)

B. Civic Activities:

Essential Service

Limited Child-Care

Community Assembly

Recreational Assembly

Community Education

Nonassembly Cultural

Administrative

Health Care

Utility and Vehicular, but excluding communications equipment installations and exchanges

C. Commercial Activities:

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Medical Service

General Retail Sales

Consumer Service

Consultative and Financial Service

Consumer Cleaning and Repair Service

Consumer Dry Cleaning Plant

Administrative

Business, Communication, and Media Service

Broadcasting and Recording Service

Research Service

General Wholesale Sales

Building Material Sales

Automobile and Other Light Vehicle Sales and Rental

Automobile and Other Light Vehicle Gas Station and Servicing

Automotive and Other Light Vehicle Repair and Cleaning

Automotive Fee Parking

D. Industrial Activities:

Custom Manufacturing

E. Agricultural and Extractive Activities:

Limited Agriculture, permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure)

F. Off-street parking serving activities other than those listed above, subject to the conditions set forth in Section 17.116.075.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 5

(part), 1999; Ord. 11904 § 5.31 (part), 1996; Ord. 11854 § 5, 1996; prior planning code § 4553)

17.54.060 Conditionally permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Residential Activities:

Residential Care, except when occupying a One-Family Dwelling Residential Facility

Emergency Shelter

B. Civic Activities:

Extensive Impact

Utility and Vehicular (communications equipment installations and exchanges, only)

Special Health Care Civic Activities

C. Commercial Activities:

Check Cashier and Check Cashing

Fast-Food Restaurant

Convenience Market

Alcoholic Beverage Sales

Mechanical or Electronic Games

Group Assembly

Personal Instruction and Improvement Services

Transient Habitation

Animal Care

Animal Boarding

Undertaking Service

D. Industrial Activities:

Light

E. Agricultural and Extractive Activities:

Plant Nursery

Extensive Agriculture (see Section 17.54.090)

F. Activities that are listed neither as permitted nor conditionally permitted, but are permitted or conditionally permitted on nearby lots in an adjacent zone, subject to the conditions set forth in Section 17.102.110

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12626 § 4 (part), 2004; Ord. 12450 § 9, 2002; Ord. 12138 § 5 (part), 1999; Ord. 11854 § 6, 1996; prior planning code § 4554)

17.54.070 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

A. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.103.080

Two-Family Dwelling

Multifamily Dwelling

Rooming House

B. Nonresidential Facilities:

Enclosed

Open

Drive-In

Sidewalk Cafes, subject to the provisions of Section 17.103.090

C. Signs:

Residential

Special

Development

Realty

Civic

Business

D. Telecommunications Facilities:

Micro Telecommunications, except when a Major Conditional Use Permit is required by Section 17.128.025

Mini Telecommunications, except when a Major Conditional Use Permit is required by Section 17.128.025

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12224 § 4 (part), 2000; Ord. 12021 § 3, 1997; Ord. 11904 § 5.36 (part), 1996; prior planning code § 4555)

17.54.080 Conditionally permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Nonresidential Facilities:

Drive-Through

B. Off-Street Parking Facilities serving 50 or more vehicles.

C. Telecommunications Facilities:

Macro Telecommunications

Monopole Telecommunications

(Ord. 12224 § 3 (part), 2000; Ord. 11904 § 5.42 (part), 1996; prior planning code § 4556)

17.54.090 Special regulations applying to certain activities.

A. Fast-Food Restaurants, Convenience Markets, and Certain Establishments Selling Alcoholic Beverages. See Section 17.103.030

B. Automobile and Other Light Vehicle Gas Station and Servicing.

1. Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities shall not involve open storage of goods or materials. All repair and lubrication performed by such activities shall take place in an enclosed building.

2. See Section 17.54.180B for special landscaping requirements.

3. See Section 17.54.110 for limitations on Signs.

C. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 4558)

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, changed the title of Section 17.54.090 from "Special regulations applying to certain commercial activities" to "Special regulations

applying to certain activities." The historical notation has been preserved for reference purposes.

17.54.095 Reserved.

Editor's note—

Ord. No. 13060, § 2(Exh. A), adopted March 1, 2011, repealed the former Section 17.54.095 in its entirety, which pertained to restrictions on telecommunications facilities and derived from Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010.

17.54.100 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.

See Section 17.102.230.

(Prior planning code § 4559)

17.54.110 Limitations on Signs.

A. General Limitations. All Signs shall be subject to the applicable limitations set forth in Section 17.104.020

(Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 4563)

17.54.120 Minimum lot area, width, and frontage.

Every lot containing a Residential Facility shall have a minimum lot area of four thousand (4,000) square feet and a minimum lot width mean of twenty-five (25) feet, except as a lesser area or width is allowed by Section 17.106.010. No minimum lot area or lot width is prescribed for any lot which does not contain a Residential Facility. Every lot shall have a minimum frontage of twenty-five (25) feet upon a street, except as this requirement is modified by Section 17.106.020.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 4564)

17.54.130 Maximum residential density.

The maximum density of Residential Facilities shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum density on lots containing both Residential and Nonresidential Facilities. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms. No Residential Facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270.B and a Secondary Unit.

A. Basic Density. One regular dwelling unit is permitted for each four hundred fifty (450) square feet of lot area, provided that one extra such unit is permitted if a remainder of three hundred (300) square feet or more is obtained after division of the lot area by four hundred fifty (450) square feet. One efficiency dwelling unit is permitted for each three

hundred (300) square feet of lot area, provided that one extra such unit is permitted if a remainder of two hundred twenty-five (225) square feet or more is obtained after division of the lot area by three hundred (300) square feet. The maximum number of rooming units shall be one for each two hundred twenty-five (225) square feet of lot area, plus one extra such unit if a remainder of one hundred fifty (150) square feet or more is obtained after division of the lot area by two hundred twenty-five (225) square feet. For a combination of different types of living units, the total required lot area shall be the sum of the above requirements for each. The number of living units allowed heretofore may be exceeded by ten percent (10%) on any corner lot, and may also be exceeded by ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot. A One-Family Dwelling or a One-Family Dwelling with Secondary Unit is permitted on any lot which qualifies under Section 17.106.010 as an existing buildable parcel and that contains no other dwelling units.

B. Density Bonuses. The number of living units allowed by Subsection A. of this Section may be increased by not to exceed fifty percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040;

2. Upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

The number of living units may also be increased, as prescribed in Section 17.106.060, in certain special housing.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 4565)

17.54.140 Maximum nonresidential Floor-Area Ratio.

The maximum Floor-Area Ratio (FAR) of Nonresidential Facilities shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum FAR on lots containing both Residential and Nonresidential Facilities:

A. Permitted Floor-Area Ratio. The maximum permitted Floor-Area Ratio is 3.00, except that this ratio may be exceeded by ten percent (10%) on any corner lot and may also be exceeded by ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot.

B. Conditionally Permitted Floor-Area Ratio. The Floor-Area Ratio permitted by Subsection A. of this Section may be increased by not to exceed fifty percent (50%) upon the acquisition of development rights from nearby lots and the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, subject to the provisions of Section 17.106.050.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 4567)

17.54.150 Maximum height.

Except as provided in Chapter 17.128, no general maximum height is prescribed, except that the height of facilities shall be limited, as prescribed in Section 17.108.010, on lots lying

along a boundary of any of certain other zones. But see Section 17.54.110 for maximum height of Signs, and Section 17.108.130 for maximum height of facilities within minimum yards and courts.

(Ord. 11904 § 5.54, 1996: prior planning code § 4569)

17.54.160 Minimum yards and courts.

No yards or courts are generally required except as indicated below. The following minimum yards and courts shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130:

A. Front Yard. A front yard shall be provided, as prescribed in Section 17.108.040, in certain situations where part of the frontage on the same side of a block is in a Residential Zone.

B. Side Yard—Street Side of Corner Lot. A side yard shall be provided, as prescribed in Section 17.108.070, on the street side of a corner lot in certain situations where a lot to the rear of the corner lot is in a Residential Zone.

C. Side Yard—Interior Lot Line.

1. A side yard shall be provided along an interior side lot line, when and as prescribed in Section 17.108.080, for Residential Facilities.

2. A side yard shall be provided, as prescribed in Section 17.108.090, along an interior side lot line lying along a boundary of any of certain other zones.

D. Rear Yard.

1. A rear yard with a minimum depth of ten (10) feet shall be provided for all Residential Facilities, except as a lesser depth is allowed by Section 17.108.110.

2. A rear yard shall be provided, as prescribed in Section 17.108.100, along a boundary of any of certain other zones.

E. Courts. On each lot containing a Residential Facility, courts shall be provided when and as required by Section 17.108.120.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 4570)

17.54.170 Minimum usable open space.

On each lot containing Residential Facilities with a total of two or more living units, group usable open space shall be provided for such facilities in the minimum amount of one hundred fifty (150) square feet per regular dwelling unit plus one hundred (100) square feet per efficiency dwelling unit plus seventy-five (75) square feet per rooming unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020, except that actual group space shall be provided in the minimum amount of thirty (30) square feet per regular dwelling unit plus twenty (20) square feet per efficiency dwelling unit plus fifteen (15) square feet per rooming unit. All required space shall conform to the standards for required usable open space in Chapter 17.126.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 4571)

17.54.180 Buffering and landscaping.

A. General Requirements. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, and storage areas; control of artificial illumination; and other matters specified therein.

B. Landscaping for Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities. One and one-half percent (1.5%) of the lot area devoted to Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities shall be developed with lawn, ground cover, garden, or shrubs, and one street tree shall be provided for each one hundred (100) feet of street line abutting the lot, subject to the standards for required landscaping and screening in Chapter 17.124.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 4572)

17.54.190 Special regulations for Mini-Lot and Planned Unit Developments.

A. **Mini-Lot Developments.** In Mini-Lot Developments, certain of the regulations otherwise applying to individual lots in the C-40 Zone may be waived or modified when and as prescribed in Chapter 17.142.

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 C-40 Zone, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; prior planning code § 4573)

17.54.200 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 C-40 Zone.

F. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in C-40 Zone.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12884 § 2 (part), 2008; amended during 1997 codification; Ord. 11807 § 3 (part), 1995; prior planning code § 4574)

Chapter 17.56 C-45 COMMUNITY SHOPPING COMMERCIAL ZONE REGULATIONS

Sections:

17.56.010 Title, purpose, and applicability.

17.56.040 Required design review process.

17.56.050 Permitted activities.

17.56.060 Conditionally permitted activities.

17.56.070 Permitted facilities.

17.56.080 Conditionally permitted facilities.

17.56.090 Restriction on accessory parking and loading within 75 feet of front lot line.

17.56.095 Special regulations regarding extensive agriculture.

17.56.100 Special regulations applying to Fast-Food Restaurants, Convenience Markets, and certain establishments selling alcoholic beverages.

17.56.105 Reserved.

17.56.110 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.

17.56.120 Limitations on Signs.

17.56.130 Minimum lot area, width, and frontage.

17.56.140 Maximum residential density.

17.56.150 Maximum Floor-Area Ratio.

17.56.160 Maximum height.

17.56.170 Minimum yards and courts.

17.56.180 Minimum usable open space.

17.56.190 Buffering.

17.56.200 Special regulations for mini-lot and Planned Unit Developments.

17.56.210 Other zoning provisions.

17.56.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the C-45 Community Shopping Commercial Zone Regulations. The Community Shopping Commercial (C-45) Zone is intended to create, preserve, and enhance areas with a wide range of both retail and wholesale establishments serving both long and short term needs in compact locations oriented toward pedestrian comparison shopping, and is typically appropriate to commercial clusters near intersections of major thoroughfares. These regulations shall apply in the C-45 Zone.

(Prior planning code § 4600)

17.56.040 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11904 § 5.60 (part), 1996: prior planning code § 4602.1)

17.56.050 Permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, are permitted:

A. Residential Activities:

Permanent

Residential Care occupying a One-Family Dwelling Residential Facility

Supportive Housing

Transitional Housing

Semi-Transient

B. Civic Activities:

Essential Service

Limited Child-Care

Recreational Assembly

Community Assembly

Community Education

Nonassembly Cultural

Administrative

Health Care

C. Commercial Activities:

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Medical Service

General Retail Sales

Consumer Service

Consultative and Financial Service

Consumer Cleaning and Repair Service

Consumer Dry Cleaning Plant

Administrative

Business, Communication, and Media Service

Broadcasting and Recording Service

Research Service

D. Industrial Activities:

Custom Manufacturing

E. Agricultural and Extractive Activities:

Limited Agriculture, permitted outright if the Activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the Activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure)

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12138 § 5 (part), 1999; Ord. 11904 § 5.32 (part), 1996; prior planning code § 4603)

17.56.060 Conditionally permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Residential Activities:

Residential Care, except when occupying a One-Family Dwelling Residential Facility

Emergency Shelter

B. Civic Activities:

Utility and Vehicular

Special Health Care Civic

Extensive Impact Civic

C. Commercial Activities:

Check Cashier and Check Cashing

Fast-Food Restaurant

Convenience Market

Alcoholic Beverage Sales

Mechanical or Electronic Games

Group Assembly

Personal Instruction and Improvement Services

General Wholesale Sales

Transient Habitation

Automobile and Other Light Vehicle Sales and Rental

Automobile and Other Light Vehicle Gas Station and Servicing

Automotive and Other Light Vehicle Repair and Cleaning

Automotive Fee Parking

Animal Care

Animal Boarding

Undertaking Service

D. Industrial Activities:

Light Manufacturing

E. Agricultural and Extractive Activities:

Plant Nursery

Extensive Agriculture (see Section 17.56.095)

F. Off-street parking serving activities other than those listed above or in Section 17.56.050, subject to the conditions set forth in Section 17.116.075.

G. Activities that are listed neither as permitted nor conditionally permitted, but are permitted or conditionally permitted on nearby lots in an adjacent zone, subject to the conditions set forth in Section 17.102.110.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12626 § 4 (part), 2004; Ord. 12450 § 10, 2002; Ord. 12138 § 5 (part), 1999; prior planning code § 4604)

17.56.070 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

A. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.103.080

Two-Family Dwelling

Multifamily Dwelling

Rooming House

B. Nonresidential Facilities:

Enclosed

Open, accommodating Civic Activities, Limited Agriculture, seasonal sales, or special events only

Sidewalk Cafes, subject to the provisions of Section 17.103.090

C. Signs:

Residential

Special

Development

Realty

Civic

Business

D. Telecommunications Facilities:

Micro Telecommunications, except when a Major Conditional Use Permit is required by Section 17.128.025

Mini Telecommunications, except when a Major Conditional Use Permit is required by Section 17.128.025

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12224 § 4 (part), 2000; Ord. 12021 § 4, 1997; Ord. 11904 § 5.36 (part), 1996; prior planning code § 4605)

17.56.080 Conditionally permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Nonresidential Facilities:

Open, accommodating activities other than Civic Activities, Limited Agriculture, seasonal sales, or special events

Drive-in

Drive-Through

B. Telecommunications Facilities:

Macro Telecommunications

Monopole Telecommunications

(Ord. 12224 § 3 (part), 2000; Ord. 11904 § 5.41 (part), 1996; prior planning code § 4606)

17.56.090 Restriction on accessory parking and loading within 75 feet of front lot line.

Accessory off-street parking and loading activities, areas, and driveways shall not be located within seventy-five (75) feet from the front lot line of the lot on which they are located, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 4607)

17.56.095 Special regulations regarding extensive agriculture.

Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in 17.134.050, this activity must meet the following use permit criteria:

A. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.56.100 Special regulations applying to Fast-Food Restaurants, Convenience Markets, and certain establishments selling alcoholic beverages.

See Section 17.103.030.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 4608)

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, changed the title of Section 17.56.100 from "Special regulations applying to Fast-Food Restaurants, Convenience Markets, and certain establishments selling alcoholic beverages or providing mechanical or electronic games" to "Special regulations applying to Fast-Food Restaurants, Convenience Markets, and certain establishments selling alcoholic beverages." The historical notation has been preserved for reference purposes.

17.56.105 Reserved.

Editor's note—

Ord. No. 13030, § 2(Exh. A), adopted March 1, 2011, repealed the former Section 17.56.105 in its entirety, which pertained to restrictions on telecommunications facilities and derived from Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010.

17.56.110 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.

See Section 17.102.230.

(Prior planning code § 4609)

17.56.120 Limitations on Signs.

A. General Limitations. All Signs shall be subject to the applicable limitations set forth in Section 17.104.020

(Ord. 12606 Att. A (part), 2004: Prior planning code § 4613)

17.56.130 Minimum lot area, width, and frontage.

Every lot containing a Residential Facility shall have a minimum lot area of four thousand (4,000) square feet and a minimum lot width mean of twenty-five (25) feet, except as a lesser area or width is allowed by Section 17.106.010. No minimum lot area or lot width mean is prescribed for any lot which does not contain a Residential Facility. Every lot shall have a minimum frontage of twenty-five (25) feet upon a street, except as this requirement is modified by Section 17.106.020.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 4614)

17.56.140 Maximum residential density.

The maximum density of Residential Facilities shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum density on lots containing both Residential and Nonresidential Facilities. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms. No Residential Facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270.B and a Secondary Unit.

A. Permitted Density. One regular dwelling unit is permitted for each three hundred (300) square feet of lot area, provided that one extra such unit is permitted if a remainder of two hundred (200) square feet or more is obtained after division of the lot area by three hundred (300) square feet. One efficiency dwelling unit is permitted for each two hundred (200) square feet of lot area, provided that one extra such unit is permitted if a remainder of one hundred fifty (150) square feet or more is obtained after division of the lot area by two hundred (200) square feet. One rooming unit is permitted for each one hundred fifty (150) square feet of lot area, provided that one extra such unit is permitted if a remainder of one hundred (100) square feet or more is obtained after division of the lot area by one hundred fifty (150) square feet. For a combination of different types of living units, the total required lot area shall be the sum of the above requirements for each. The number of living units permitted heretofore may be exceeded by ten percent (10%) on any corner lot, and may also be exceeded by ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot. A One-Family Dwelling or a One-Family Dwelling with Secondary Unit is permitted on any lot which qualifies under Section 17.106.010 as an existing buildable parcel and that contains no other dwelling units.

B. Conditionally Permitted Density. The number of living units permitted by Subsection A. of this Section may be increased by not to exceed fifty percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040;

2. Upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

The number of living units may also be increased, as prescribed in Section 17.106.060, in certain special housing.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 4615)

17.56.150 Maximum Floor-Area Ratio.

The maximum Floor-Area Ratio (FAR) of any facility shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum Floor-Area Ratio on lots containing both Residential and Nonresidential Facilities:

A. Permitted Floor-Area Ratio. The maximum permitted Floor-Area Ratio is 7.00, except that this ratio may be exceeded:

1. By ten percent (10%) on any corner lot; and

2. By ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot; and

3. In the case of a Nonresidential Facility, by not to exceed fifteen percent (15%) if one (1) square foot of plaza, conforming to the provisions of Section 17.126.050, is provided for each seven (7) square feet of additional floor area.

B. Conditionally Permitted Floor-Area Ratio. The Floor-Area Ratio permitted by Subsection A. of this Section may be increased by not to exceed fifty percent (50%)

upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions in Section 17.106.040;
2. For any facility, upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 4617)

17.56.160 Maximum height.

Except as provided in Chapter 17.128, no general maximum height is prescribed, except that the height of facilities shall be limited, as prescribed in Section 17.108.010, on lots lying along a boundary of any of certain other zones. But see Section 17.56.120 for maximum height of Signs, and Section 17.108.130 for maximum height of facilities within minimum yards and courts.

(Ord. 11904 § 5.55, 1996; prior planning code § 4619)

17.56.170 Minimum yards and courts.

No yards or courts are generally required except as indicated below. The following minimum yards and courts shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130:

A. Front Yard. A front yard shall be provided, as prescribed in Section 17.108.040, in certain situations where part of the frontage on the same side of a block is in a Residential Zone.

B. Side Yard—Street Side of Corner Lot. A side yard shall be provided, as prescribed in Section 17.108.070, on the street side of a corner lot in certain situations where a lot to the rear of the corner lot is in a Residential Zone.

C. Side Yard—Interior Lot Line.

1. A side yard shall be provided along an interior side lot line, when and as prescribed in Section 17.108.080, for Residential Facilities.
2. A side yard shall be provided, as prescribed in Section 17.108.090, along an interior side lot line lying along a boundary of any of certain other zones.

D. Rear Yard.

1. A rear yard with a minimum depth of ten (10) feet shall be provided for all Residential Facilities, except as a lesser depth is allowed by Section 17.108.110.
2. A rear yard shall be provided, as prescribed in Section 17.108.100, along a boundary of any of certain other zones.

E. Courts. On each lot containing a Residential Facility, courts shall be provided when and as required by Section 17.108.120.

(Prior planning code § 4620)

17.56.180 Minimum usable open space.

On each lot containing Residential Facilities with a total of two or more living units, group usable open space shall be provided for such facilities in the minimum amount of one hundred fifty (150) square feet per regular dwelling unit plus one hundred (100) square feet per efficiency dwelling unit plus seventy-five (75) square feet per rooming unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020. All required space shall conform to the standards for required usable open space in Chapter 17.126.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 4621)

17.56.190 Buffering.

All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, and storage areas; control of artificial illumination; and other matters specified therein. See also Section 17.56.090.

(Prior planning code § 4622)

17.56.200 Special regulations for Mini-Lot and Planned Unit Developments.

A. **Mini-Lot Developments.** In Mini-Lot Developments, certain of the regulations otherwise applying to individual lots in the C-45 Zone 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 C-45 Zone, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. 12872 § 4 (part), 2008; prior planning code § 4623)

17.56.210 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 C-45 Zone.

F. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in C-45 Zone.

(Ord. 12884 § 2 (part), 2008; amended during 1997 codification; Ord. 11807 § 3 (part), 1995; prior planning code § 4624)

Chapter 17.58 CBD CENTRAL BUSINESS DISTRICT ZONES REGULATIONS [25]

Sections:

17.58.010 Title, purpose, and applicability.

17.58.020 Required design review process.

17.58.030 Conditional use permit for large-scale developments.

17.58.040 Permitted and conditionally permitted activities.

17.58.050 Permitted and conditionally permitted facilities.

17.58.060 Property development standards.

17.58.070 Usable open space standards.

17.58.080 Other zoning provisions.

17.58.010 Title, purpose, and applicability.

A. Intent. The provisions of this Chapter shall be known as the CBD Central Business District Zones Regulations. The intent of the Central Business District (CBD) Zones is to:

1. Encourage, support, and enhance the Central Business District as a high density, mixed use urban center of regional importance and a primary hub for business, communications, office, government, urban residential activities, technology, retail, entertainment, and transportation.
2. Encourage, support, and enhance a mix of large-scale offices, commercial, urban high-rise residential, institutional, open space, cultural, educational, arts, entertainment, services, community facilities, and visitor uses.
3. Enhance the skyline and encourage well-designed, visually interesting, and varied buildings.
4. Encourage and enhance a pedestrian-oriented streetscape.
5. Encourage vital retail nodes that provide services, restaurants, and shopping opportunities for employees, residents, and visitors.
6. Preserve and enhance distinct neighborhoods in the Central Business District.

B. Description of zones. This Chapter establishes land use regulations for the following four (4) zones:

1. **CBD-R Central Business District Residential Zone.** The intent of the CBD-R Zone is to create, maintain, and enhance areas of the Central Business District appropriate for residential development with small-scaled compatible ground-level commercial uses.
2. **CBD-P Central Business District Pedestrian Retail Commercial Zone.** The intent of the CBD-P Zone is to create, maintain, and enhance areas of the Central Business District for ground-level, pedestrian-oriented, active storefront uses. Upper story spaces are intended to be available for a wide range of office and residential activities.

3. **CBD-C Central Business District General Commercial Zone.** The intent of the CBD-C Zone is to create, maintain, and enhance areas of the Central Business District appropriate for a wide range of ground-floor office and other commercial activities. Upper-story spaces are intended to be available for a wide range of residential and office or other commercial activities.

4. **CBD-X Central Business District Mixed Commercial Zone.** The intent of the CBD-X Zone is to designate areas of the Central Business District appropriate for a wide range of upper-story and ground-level residential, commercial, and compatible light industrial activity.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12955, § 2(Exh. A), 7-21-2009)

17.58.020 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12955, § 2(Exh. A), 7-21-2009)

17.58.030 Conditional use permit for large-scale developments.

No development that involves more than two hundred thousand (200,000) square feet of new floor area, or a new building or portion thereof of more than two hundred fifty (250) feet in height, shall be permitted except upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). This requirement shall not apply to developments that have been approved according to the Planned Unit Development procedure (see Chapter 17.140 for the PUD procedure).

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12955, § 2(Exh. A), 7-21-2009)

17.58.040 Permitted and conditionally permitted activities.

Table 17.58.01 lists the permitted, conditionally permitted, and prohibited activities in the CBD Zones. The descriptions of these activities are contained in Chapter 17.10.

"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 for the CUP procedure) in the corresponding zone.

"L" designates activities subject to certain limitations or notes listed at the bottom of the Table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.58.01: Permitted and Conditionally Permitted Activities

Activities	CBD-R	CBD-P	CBD-C	CBD-X	Additional Regulations
Residential Activities					
Permanent	P	P(L1)	P(L1)	P	
Residential Care	P(L2)	P(L1)(L2)	P(L1)(L2)	P	17.103.010
Supportive Housing	P	P(L1)	P(L1)	P	
Transitional Housing	P	P(L1)	P(L1)	P	
Emergency Shelter	C(L2)	C(L2)	C(L2)	C	17.103.010
Semi-Transient	C	C(L1)	C(L1)	C	
Bed and Breakfast	P	P	P	P	17.10.125
Civic Activities					
Essential Service	P(L17)	P(L17)	P(L17)	P(L17)	
Limited Child-Care Activities	P(L3)	P(L5)	P	P	
Community Assembly	C	C(L6)	C	C	
Recreational Assembly	P(L3)(L4)	P(L5)	P	P	
Community Education	P(L3)(L4)	P(L5)	P	P	
Nonassembly Cultural	P(L3)(L4)	P(L4)	P	P	
Administrative	P(L4)(L7)	P(L5)	P	P	
Health Care	P(L3)(L4)	P(L4)(L5)	P	P	
Special Health Care	—	C(L6)(L8)	C(L8)	C(L8)	17.103.020
Utility and Vehicular	C	C	C	C	
Extensive Impact	C	C	C	C	
Commercial Activities					
General Food Sales	P(L4)(L7)	P(L4)	P	P	
Full Service Restaurants	P(L4)(L7)	P	P	P	
Limited Service Restaurant and Cafe	P(L4)(L7)	P	P	P	
Fast-Food Restaurant	—	C	C	C	17.103.030 and 8.09
Convenience Market	C(L7)	C	C	C	17.103.030
Alcoholic Beverage Sales	C(L7)	C	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	—	C	C	C	

Activities	CBD-R	CBD-P	CBD-C	CBD-X	Additional Regulations
Medical Service	P(L4)(L7)	P(L5)	P	P	
General Retail Sales	P(L4)(L7)	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	
Consumer Service	P(L4)(L7)(L9)	P(L4)(L9)	P(L9)	P(L9)	
Consultative and Financial Service	P(L4)(L7)	P(L5)	P	P	
Check Cashier and Check Cashing	—	C(L10)	C(L10)	C(L10)	17.103.040
Consumer Cleaning and Repair Service	P(L4)(L7)	P(L5)	P	P	
Consumer Dry Cleaning Plant	C(L7)	C	C	C	
Group Assembly	C(L7)(L11)	P(L4)(L11)	P(L11)	P(L11)	
Personal Instruction and Improvement Services	P(L4)(L7)	P(L5)	P	P	
Administrative	P(L4)(L7)	P(L5)	P	P	
Business, Communication, and Media Services	P(L4)(L7)	P(L5)	P	P	
Broadcasting and Recording Services Commercial Activities	—	P(L5)	P	P(L4)	
Research Service	P(L4)(L7)	P(L5)	P	P	
General Wholesale Sales	—	—	—	C	
Transient Habitation	C	C(L6)	P	C	17.103.050
Building Material Sales	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	C	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	C(L13)	C(L13)	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	—	
Taxi and Light Fleet-Based Services	—	—	C(L13)	C(L13)	
Automotive Fee Parking	C(L14)	C(L14)	C(L14)	C(L14)	
Animal Boarding	—	—	—	—	
Animal Care	—	C(L6)	C	C	
Undertaking Service	—	—	C	C	
Industrial Activities					

Activities	CBD-R	CBD-P	CBD-C	CBD-X	Additional Regulations
Custom Manufacturing				C(L13)	
Light Manufacturing				C(L13)	
General Manufacturing				—	
Heavy/High Impact	—	—	—	—	
Research and Development	—	—	C(L13)	C(L13)	
Construction Operations	—	—	—	—	
Warehousing, Storage, and Distribution-Related					
A. General Warehousing, Storage and Distribution	—	—	—	C(L13)	
B. General Outdoor Storage	—	—	—	—	
C. Self- or Mini-Storage	—	—	—	—	
D. Container Storage	—	—	—	—	
E. Salvage/Junk Yards	—	—	—	—	
Regional Freight Transportation	—	—	—	—	
Trucking and Truck-Related	—	—	—	—	
Recycling and Waste-Related					
A. Satellite Recycling Collection Centers	—	—	C	C	
B. Primary Recycling Collection Centers	—	—	—	—	
Hazardous Materials Production, Storage, and Waste Management-Related	—	—	—	—	
Agricultural and Extractive Activities					
Limited Agriculture	P(L15)	P(L15)	P(L15)	P(L15)	
Extensive Agriculture	C(L16)	C(L16)	C(L16)	C(L16)	
Plant Nursery	—	—	—	—	
Mining and Quarrying	—	—	—	—	
Accessory off-street parking serving prohibited activities	C	C	C	C	17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone	C	C	C	C	17.102.110

Limitations:

L1. These activities may not be located within thirty (30) feet of the front lot line on the ground floor of the principal building with the exception of incidental pedestrian entrances that lead to one of these activities elsewhere in the building.

L2. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L3. These activities may only be located above the ground floor of a building upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure).

L4. With the exception of parcels facing Broadway, Telegraph Avenue, and 14th Street, the total floor area devoted to these activities on the ground floor by any single establishment may only exceed seven thousand five hundred (7,500) square feet upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure).

L5. If located both on the ground floor of a building and within thirty (30) feet from any street-abutting property line, these activities are only permitted upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this conditional use permit requirement. In addition to the criteria contained in Section 17.134.050, these conditionally permitted ground floor proposals must also meet each of the following criteria:

a. The proposal will not impair a generally continuous wall of building facades;

b. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and

c. The proposal will not interfere with the movement of people along an important pedestrian street.

L6. These activities are only permitted upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, when these activities are located within thirty (30) feet of the front of the ground floor of the principal building (with the exception of incidental pedestrian entrances that lead to one of these activities elsewhere in the building) the proposed activities must also meet the criteria contained in Note L5, above.

L7. These activities may only be located on or below the ground floor of a building with the following exceptions:

a) If the floor area devoted to the activity is less than two thousand (2,000) square feet and the activity takes place in a Local Register property, then the activity is permitted above the ground floor upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP process).

b) An activity located on the ground floor may extend to the second floor of a building if each: 1) the floor area devoted to Nonresidential Activities in the building is less than the floor area devoted to Residential Activities; 2) the activity on the second floor is the same as, or accessory to, the ground floor activity and part of the same business or

establishment; and 3) there is a direct internal connection between the ground floor and the second story activities.

L8. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity, or five hundred (500) feet from any K-12 school or Licensed Emergency Shelters. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L9. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L10. No new or expanded Check Cashier and Check Cashing Commercial Activity shall be located closer than one thousand (1,000) feet from any other such activity or five hundred (500) feet from any Community Education, Community Assembly, or Recreational Assembly Civic Activity; State or Federally chartered bank, savings association, credit union, or industrial loan company; or certain Alcoholic Beverage Sales Commercial Activities. See Section 17.103.040 for further regulations regarding Check Cashier and Check Cashing Commercial Activities.

L11. No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L12. The total floor area devoted to these activities by any single establishment shall not exceed three thousand (3,000) square feet.

L13. These activities, including accessory activities, are only allowed to be performed indoors. This requirement includes, but is not limited to: vehicles stored before and after servicing, general storage, vehicle and other repair, and automotive cleaning. This requirement excludes parking for customers currently at the business and automotive fueling.

L14. Auto fee parking is permitted upon the granting of conditional use permit (see Chapter 17.134 for the CUP procedure) if it is located in either a parking structure that is at least three (3) stories high or in a below grade parking lot. Auto fee parking is otherwise prohibited.

L15. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure).

L16. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

L17. Community Gardens are permitted outright if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. The cultivation of animals, animal products and/or livestock production,

except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12955, § 2(Exh. A), 7-21-2009)

17.58.050 Permitted and conditionally permitted facilities.

Table 17.58.02 lists the permitted, conditionally permitted, and prohibited facilities in the CBD Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure) in the corresponding zone.

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited

Table 17.58.02: Permitted and Conditionally Permitted Facilities

Activities	Zones				Additional Regulations
	CBD-R	**CBD-P**	**CBD-C**	**CBD-X**	
Residential Facilities					
One-Family Dwelling	(L1)	—	—	—	
One-Family Dwelling with Secondary Unit	P(L1)	—	—	—	17.103.080
Two-Family Dwelling	P	—	—	—	
Multifamily Dwelling	P	P	P	P	
Rooming House	P	P	P	P	
Mobile Home	—	—	—	—	
Nonresidential Facilities					
Enclosed Nonresidential	P	P	P	P	
Open Nonresidential	C(L3)	C(L3)	C(L3)	C(L3)	
Sidewalk Cafe	P	P	P	P	17.103.090
Drive-In Nonresidential	—	—	—	C	
Drive-Through Nonresidential	—	—	—	C(L2)	17.103.100
Telecommunications Facilities					
Micro Telecommunications	C	P	P	P	17.128
Mini Telecommunications	C	P	P	P	17.128
Macro Telecommunications	C	C	C	C	17.128

Activities	Zones				Additional Regulations
	CBD-R	**CBD-P**	**CBD-C**	**CBD-X**	
Monopole Telecommunications	C	C	C	C	17.128
Tower Telecommunications	—	—	—	—	17.128
Sign Facilities					
Residential Signs	P	P	P	P	17.104
Special Signs	P	P	P	P	17.104
Development Signs	P	P	P	P	17.104
Realty Signs	P	P	P	P	17.104
Civic Signs	P	P	P	P	17.104
Business Signs	P	P	P	P	17.104
Advertising Signs	—	—	—	—	17.104

Limitations:

L1. See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit is only permitted when there is no more than one (1) existing Primary Unit on a lot, subject to the provisions of Section 17.103.080.

L2. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

L3. No Conditional Use Permit (CUP) is required for Open Nonresidential Facilities to accommodate Civic Activities, Limited Agriculture, seasonal sales, or special events.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12955, § 2(Exh. A), 7-21-2009)

17.58.060 Property development standards.

A. **Zone Specific Standards.** Table 17.58.03 below prescribes development standards specific to individual zones. The number designations in the right-hand column refer to the additional regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified zone.

Table 17.58.03: Property Development Standards

Development Standards	Zones				Additional Regulations
	CBD-R	**CBD-P**	**CBD-C**	**CBD-X**	
Minimum Lot Dimensions					
Lot Width mean	25 ft.	25 ft.	50 ft.	50 ft.	1

Development Standards	Zones				Additional Regulations
	CBD-R	**CBD-P**	**CBD-C**	**CBD-X**	
Frontage	25 ft.	25 ft.	50 ft.	50 ft.	1
Lot area	4,000 sf.	4,000 sf.	7,500 sf.	7,500 sf.	1
Minimum/Maximum Setbacks					
Minimum front	0 ft.	0 ft.	0 ft.	0 ft.	2
Maximum front and street side for the first story	N/A	5 ft.	5 ft.	10 ft.	3
Maximum front and street side for the second and third stories or 35 ft, whatever is lower	N/A	5 ft.	5 ft.	N/A	3
Minimum interior side	0 ft.	0 ft.	0 ft.	0 ft.	4
Minimum corner side	0 ft.	0 ft.	0 ft.	0 ft.	
Rear	10 ft.	0 ft.	0 ft.	0 ft.	5
Design Regulations					
Ground floor commercial facade transparency	55%	65%	55%	55%	6
Minimum height of ground floor Nonresidential Facilities	15 ft.	15 ft.	15 ft.	15 ft.	7
Minimum separation between the grade and ground floor living space	2.5 ft.	N/A	N/A	2.5 ft.	8

Additional Regulations:

1. See Section 17.106.010 and 17.106.020 for exceptions to lot area, width and street frontage regulations.

2. See Section 17.108.040 for the minimum front yard setback when fifty percent (50%) or more of the frontage on the same block and side of the street is in a Residential Zone.

3. The following notes apply to the maximum yard requirements:

a. The requirements only apply to the construction of new principal buildings and to no more than two property lines. One of these property lines shall abut the principal street.

b. The requirements do not apply to lots containing Recreational Assembly, Community Education, Utility and Vehicular, or Extensive Impact Civic Activities, Agricultural Activities, or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities as principal activities.

c. In the CBD-P, CBD-C, and CBD-X Zones, these maximum yards apply to seventy-five percent (75%) of the street frontage on the principal street and fifty percent (50%) on other streets, if any. All percentages, however, may be reduced to fifty percent (50%) upon the granting of Regular design review (see Chapter 17.136 for the design review procedure). In

addition to the criteria contained in Section 17.136.050, the proposal must also meet each of the following criteria:

i. Any additional yard area abutting the principal street is designed to accommodate publicly accessible plazas, sidewalk cafes, or restaurants;

ii. The proposal will not impair a generally continuous wall of building facades;

iii. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and

iv. The proposal will not interfere with the movement of people along an important pedestrian street.

d. The maximum yard requirements above the ground floor may be waived upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, the proposal must also meet each of the following criteria:

i. It infeasible to both accommodate the use proposed for the space and meet the maximum yard requirement;

ii. The proposal will not weaken the street definition provided by buildings with reduced setbacks; and

iii. The proposal will not interrupt a continuity of 2nd and 3rd story facades on the street that have minimal front yard setbacks.

4. In the CBD-R Zone, portions of a building over fifty-five (55) feet in height shall have a setback of at least one (1) foot from the required interior side yard for every five (5) feet that portion is above fifty-five (55) feet. This setback, however, need not exceed forty (40) feet. Also, see Section 17.108.080 for the required interior side and rear yard setbacks on a lot containing two or more living units and opposite a legally-required living room window. See Section 17.108.130 for allowed projections into required yards.

5. In the CBD-R Zone, portions of a building over fifty-five (55) feet shall setback at least one (1) foot from the required rear yard for every five (5) feet that portion is above fifty-five (55) feet. This regulation shall not apply when the rear yard faces a street. This setback, however, need not exceed forty (40) feet. The following other minimum rear yard setback regulations apply in all CBD Zones:

a. A minimum ten (10) foot rear yard setback is required whenever a rear lot line abuts any portion of a lot in a Residential Zone; and

b. See Section 17.108.130 for allowed projections into required yards.

6. This percentage of transparency is only required for principal buildings that include ground floor Nonresidential Facilities, and only applies to the facade facing the principal street. On all other street facing facades, the requirement is one-half (½) the standard for the facade facing the principal street. The area of required transparency is between two (2) feet and nine (9) feet in height of the ground floor and must be comprised of clear, non-reflective windows that allow views out of indoor commercial space or lobbies. Glass block does not quality as a transparent

window. Exceptions to this regulation may be allowed by the Planning Director for unique facilities such as convention centers, gymnasiums, parks, gas stations, theaters and other similar facilities.

7. This height is required for new principal buildings and is measured from the sidewalk grade to the second story floor.

8. This regulation only applies to ground floor living space located within fifteen (15) feet of a street frontage.

B. **Design Standards Applying to All Zones**. The following regulations apply to all of the zones:

1. **Entrance.** Newly constructed principal buildings shall have at least one prominent pedestrian entrance facing the principal street. Entrances at building corners facing the principal street may be used to satisfy this requirement. Building entrances include doors to one or more shops, businesses, lobbies, or living units. Entrances shall be made prominent through some combination of projecting or recessing the door area, change in material, an awning above a door, additional detailing, stairs leading to the door, and/or other features. The entrance for Nonresidential Facilities shall be at grade.

2. **Ground Floor Treatment.** All ground-floor building materials shall be durable, of high quality, and display a sense of permanence. Such materials include, but are not limited to stone, tile, brick, metal panel systems, glass, and/or other similar materials. Further, the ground level of a newly constructed building shall be designed to enhance the visual experience for pedestrians and distinguish it from upper stories. This is achieved by designing a building base that is distinct from the rest of the building through the use of some combination of change of material, enhanced detailing, lighting fixtures, cornices, awnings, canopies, and/or other elements. For buildings with nonresidential ground floor space, visual interest shall also be achieved through modulating the ground floor into a regular cadence of storefront sized windows and entrances.

3. **Active Space Requirement.** For newly-constructed principal buildings, parking spaces, locker areas, mechanical rooms, and other non-active spaces shall not be located within thirty (30) feet from the front of the ground floor of the principal building except for incidental entrances to such activities elsewhere in the building. Driveways, garage entrances, or other access to parking and loading facilities may be located on the ground floor of this area as regulated by Subsection (E4).

4. **Parking and Loading Location.** For newly constructed principal buildings, access to parking and loading facilities through driveways, garage doors, or other means shall not be from the principal street when alternative access is feasible from another location such as a secondary frontage or an alley. Open parking areas shall not be located between the sidewalk and a principal building.

5. **Massing.** The mass of newly-constructed principal buildings shall be broken up into smaller forms to reduce the scale and enhance the visual interest of the streetscape. The massing requirements contained in this note shall be applied on all visible facades and achieved through some coordinated combination of changes in plane, building articulation, varied materials, contrasting window patterns and treatments, varying roof heights, separating upper-story floor area into two or more towers, contrasting colors, a distinct base, middle, and top, or other methods.

6. **Upper Story Windows.** An ample placement of windows above the ground floor is required at all street-fronting facades. To create visual interest, the placement and style of windows shall contribute to a coherent and appealing composition on the facade. Less window space is only permitted in exceptional cases if it contributes to a specific objective of the visual style and aesthetic effect of the building. Whenever possible, windows should be on all sides of a tower.
7. **Building Terminus.** The top of each newly-constructed principal building shall include an element that provides a distinct visual terminus. The visual terminus shall be integrated into the design concept of the building. Examples include, but are not limited to, curvilinear or stepped forms that soften the truncated tops of buildings, cornices, and other architectural forms. These rooftop elements shall be sized, shaped, and sited to screen all rooftop mechanical equipment from view.
8. **Utility Storage.** For newly-constructed buildings, areas housing trash, storage, or other utility services shall be located in the garage or be otherwise completely concealed from view of the public right-of-way. Backflow prevention devices shall be located in a building alcove, landscaped area, or utility room within the building, outside of the public right-of-way, and completely screened from view from the public right-of-way unless required otherwise by a department of the City.

C. **Height, Bulk, and Intensity.** Table 17.58.04 below prescribes height, bulk, and intensity standards associated with the height/bulk/intensity areas described in Map 17.58A (see Section 17.58.080). The numbers in the right-hand column refer to the additional regulations listed at the end of the Table. "N/A" designates the regulation is not applicable to the specified Height/Bulk/Intensity Area.

Table 17.58.04 Height, Density, Bulk, and Tower Regulations

Regulation	Height/Bulk/Intensity Area							Notes
	1	**2**	**3**	**4**	**5**	**6**	**7**	
Maximum Density (Square Feet of Lot Area Required Per Unit)								
Dwelling unit	300	200	90	90	90	90	90	1, 2
Rooming unit	150	100	45	45	45	45	45	1, 2
Maximum Floor Area Ratio	4.5	6.0	8.0	14.0	17.0	20.0	20.0	2
Maximum Height								
Building base	55 ft.	85 ft.	55 ft.	85 ft.	85 ft.	85 ft.	120 ft.	3
Total	55 ft.	85 ft.	170 ft.	275 ft.	400 ft.	No height limit	No height limit	3
Minimum Height								

Regulation	Height/Bulk/Intensity Area							Notes
	1	**2**	**3**	**4**	**5**	**6**	**7**	
New principal buildings	N/A	N/A	N/A	45 ft.	45 ft.	45 ft.	45 ft.	4
Maximum Lot Coverage								
Building base (for each story)	N/A	N/A	100% of site area	100% of site area	100% of site area	100% of site area	100% of site area	
Average per story lot coverage above the building base	N/A	N/A	50% of site area or 7,500 sf., whichever is greater	75% of site area or 10,000 sf., whichever is greater	75% of site area or 10,000 sf., whichever is greater	75% of site area or 10,000 sf., whichever is greater	85% of site area or 10,000 sf., whichever is greater	6
Tower Regulations								
Maximum average area of floor plates	N/A	N/A	10,000 sf.	15,000 sf.	20,000 sf.	25,000 sf.	No maximum	6
Maximum tower elevation length	N/A	N/A	115 ft.	150 ft.	175 ft.	195 ft.	No maximum	7
Maximum diagonal length	N/A	N/A	145 ft.	180 ft.	210 ft.	235 ft.	No maximum	
Minimum distance between towers on the same lot	N/A	N/A	40 ft.	40 ft.	40 ft.	40 ft.	No minimum	

Notes:

1. See Chapter 17.107 for affordable and senior housing density incentives.

2. For mixed use projects in the Central Business District (CBD) Zones, the allowable intensity of development shall be measured according to both the maximum nonresidential Floor Area Ratio (FAR) allowed by the zone and the maximum residential density allowed by the zone. The total lot area shall be used as a basis for computing both the maximum nonresidential FAR and the maximum residential density.

3. In Height Areas 4, 5, and 6, lots having frontage on Broadway, San Pablo Avenue, or Telegraph Avenue where the width of the right-of-way is greater than eighty-five (85) feet shall have a maximum base height equal to the width of that right-of-way. Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

4. This minimum height excludes the height of the allowed projections into the height limit contained in Section 17.108.030.

5. The average floor area of the stories above the base cannot exceed this percentage of lot area, with the following qualifications:

a. When a project contains more than one tower above the base, the floor area of a story is calculated by adding the square footages of the equivalent story in each tower. For example, if there are two towers above the base and the 5th story of one tower is fifteen thousand (15,000) square feet and the 5th story of the other tower is twenty thousand (20,000) square feet, then the total floor area of the 5th story is thirty-five thousand (35,000) square feet.

b. To allow a variety of articulation in a building, the floor area of an individual story can be as much as fifteen percent (15%) greater than the maximum average per story floor area above base.

c. A story that is more than fifteen percent (15%) less than the maximum average floor area is not included in the average per story floor area above the base.

6. The average floor plate of an individual tower cannot exceed this area, with the following qualifications:

a. The floor area of an individual tower floor plate cannot be more than fifteen percent (15%) greater than the maximum average tower floor plate.

b. An individual tower floor plate that is more than fifteen percent (15%) less than the maximum average tower floor plate is not included in the maximum average tower floor plate area calculation.

7. The following regulation applies to lots that both: 1) are designated as Special Area A on Map 17.58; and 2) have either a west or east side property line that is more than ninety (90) feet in length: the cumulative building length of the east or west elevation of all towers on such a lot shall be no more than two-thirds (2/3) the length of any east or west side property line.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12955, § 2(Exh. A), 7-21-2009)

17.58.070 Usable open space standards.

A. General. This Section contains the usable open space standards and requirements for residential development in the CBD Zones. These requirements shall supersede those in Chapter 17.126.

B. Definitions of CBD usable open space types. The following includes a list of available usable open space types eligible to fulfill the usable space requirements of this Chapter and the definitions of these types of open space:

1. "Private Usable Open Space". Private usable open space is accessible from a single unit and may be provided in a combination of recessed and projecting exterior spaces.

2. "Public Ground-Floor Plaza". Public ground-floor plazas (plazas) are group usable open space (see Section 17.127.030) located at street-level and adjacent to the building frontage. Plazas are publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving.

3. "Rooftop Open Space". Rooftop open space, a type of group usable open space, includes gardens, decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants.

4. "Courtyard". A courtyard is a type of group usable open space that can be located anywhere within the subject property.

C. Standards. All required usable open space shall be permanently maintained and shall conform to the following standards:

1. Area. On each lot containing Residential Facilities with a total of two or more living units, usable open space shall be provided for such facilities at a rate of seventy-five (75) square feet per dwelling unit and thirty-eight (38) square feet per rooming unit.

2. Size and Shape. An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the dimensions shown in the following table:

Table 17.58.05: Required Dimensions of Usable Open Space

Type of Usable Open Space	Minimum Dimension	Notes
Private	10 ft. for space on the ground floor, no dimensional requirement elsewhere.	
Public Ground-Floor Plaza	10 ft.	
Rooftop	15 ft.	1
Courtyard	15 ft.	

Note:

a. Areas occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the above dimension.

3. Openness. There shall be no obstructions above the space except for devices to enhance its usability, such as pergola or awning structures. There shall be no obstructions over ground-level private usable open space except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level private usable open space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.

4. Location. Required usable open space may be located anywhere on the lot except that not more than fifty percent (50%) of the required area may be located on the uppermost roof of any building. There is no limitation on rooftop open space on rooftop podiums that are not the uppermost roof of a building.

5. Usability. A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt or other serviceable, dust-free surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected whenever necessary for space on a roof, but shall not be more than four (4) feet high.

6. Accessibility. Usable open space, other than private usable open space, shall be accessible to all the living units on the lot. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room. Private usable open space may be located anywhere on the lot except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five (5) feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All private usable open space shall be adjacent to, and not more than four (4) feet above or below the floor level of, the living unit served. Private usable open space shall be accessible to only one living unit by a doorway to a habitable room or hallway.

D. Landscaping requirements. At least fifty percent (50%) of rooftop or courtyard usable open space area shall include landscaping enhancements. At least thirty percent (30%) of public ground floor plaza shall include landscaping enhancements. Landscaping enhancements shall consist of permanent features, such as trees, shrubbery, decorative planting containers, fountains, boulders or artwork (sculptures, etc.) The remainder of the space shall include user amenities such as seating, decorative paving, sidewalk cafes, or playground structures.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12955, § 2(Exh. A), 7-21-2009)

17.58.080 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 CBD Zones.

F. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the CBD Zones.

(Ord. No. 13042, § 4(Exh. A), 10-19-2010)

FOOTNOTE(S):

--- (**25**) ---

Editor's note— Ord. No. 12955, § 2(Exh. A), adopted July 21, 2009, repealed and reenacted Chapter 17.58 in its entirety to read as herein set out. Formerly, Chapter 17.58, §§ 17.58.010—17.58.210, pertained to similar subject matter, and derived from the prior planning code, §§ 4825, 4827.1, 4828—4834, 4838—4840, 4842, 4844—4849; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11854, §§ 7, 8, adopted 1996; Ord. No. 11904, §§ 5.31, 5.42, 5.60, adopted 1996; Ord. No. 12021, § 5, adopted 1997; Ord. No. 12138, § 5, adopted 1999; Ord. No. 12224, §§ 3, 4, adopted 2000; Ord. No. 12266, § 5, adopted 2000; Ord. No. 12450, § 11, adopted 2002; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12626, § 4, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008, and Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009. (Back)

Chapter 17.60 RESERVED [26]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.60, §§ 17.60.010—17.60.210 in its entirety, which pertained to C-51 central business service commercial zone regulations and derived from Ord. No. 12971, § 2(Exh. A), adopted September 22, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.62 RESERVED [27]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.62, §§ 17.62.010—17.62.210 in its entirety, which pertained to C-55 central core commercial zone regulations and derived from Ord. No. 12971, § 2(Exh. A), adopted September 22, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.64 RESERVED [28]

FOOTNOTE(S):

--- (**28**) ---

Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.64, §§ 17.64.010—17.64.150 in its entirety, which pertained to C-60 city service commercial zone regulations and derived from the prior planning code, §§ 4900, 4902—4906, 4908, 4909, 4913, 4914, 4919, 4920, 4922—4924; Ord. No. 11807, § 3, adopted 1995; Ord. No. 11854, §§ 9, 10, adopted 1996; Ord. No. 11904, §§ 5.33, 5.37, 5.41, 5.595.60, adopted 1996; Ord. No. 11956, § 3, adopted 1996; Ord. No. 12021, § 7, adopted 1997; Ord. No. 12224, §§ 3, 4, adopted 2000; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12939, § 3(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.65 HBX HOUSING AND BUSINESS MIX COMMERCIAL ZONES REGULATIONS

Sections:

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17.65.020 Required design review process.

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17.65.040 Permitted and conditionally permitted facilities.

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17.65.060 Minimum lot area width and frontage.

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17.65.090 Maximum density and Floor-Area Ratio for mixed use projects.

17.65.100 Maximum height.

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17.65.120 Minimum usable open space.

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17.65.140 Outdoor storage.

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17.65.170 Special regulations for Mini-Lot and Planned Unit Developments.

17.65.180 Other zoning provisions.

17.65.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the HBX Housing and Business Mix Commercial Zones Regulations. This Chapter establishes land use regulations for the HBX-1, HBX-2, HBX-3, and HBX-4 Zones.

The purposes of the Housing and Business Mix (HBX) Zones are to:

A. Allow for mixed use districts that recognize both residential and business activities;

B. Establish development standards that allow residential and business activities to compatibly co-exist;

C. Provide a transition between industrial areas and residential neighborhoods;

D. Encourage development that respects environmental quality and historic patterns of development;

   1. 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.

Housing and Business Mix - 4 (HBX-4) Zone. The HBX-4 Zone is intended to provide development standards for Live/Work, Work/Live, and housing in areas with a strong presence of industrial and heavy commercial activities.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13060, § 2(Exh. A), 3-1-2011; Ord. 12872 § 4 (part), 2008; 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, Designated Historic Property, Potentially Designated Historic Property, 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 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.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12772 § 1 (part), 2006)

* Editor's Note— The "HBX Design Guidelines Manual," referred to in this Chapter, is incorporated by reference as if fully set forth herein by Section 2 of Ordinance 12772. A copy of this manual is kept on file in the Oakland City Hall.

17.65.030 Permitted, conditionally permitted, and prohibited activities.

The following table lists the permitted, conditionally permitted, and prohibited activities in the HBX 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**	**HBX-4**	
Residential Activities					
Permanent Residential	P	P	P	P	17.65.040
Residential Care	P(L1)	P(L1)	P(L1)	P(L1)	17.103.010
Supportive Housing	P	P	P	P	
Transitional Housing	P	P	P	P	
Emergency Shelter	C	P(L2)	C	C	17.103.010
Semi-Transient Residential	C	C	C	C	17.103.010
Bed and Breakfast	—	—	—	C	17.12.125
Civic Activities					
Essential Service	P(L16)	P(L16)	P(L16)	P(L16)	
Limited Child-Care	P	P	P	P	
Community Assembly	P(L3)	P(L3)	P(L3)	P(L3)	
Recreational Assembly	P(L3)	P(L4)	P(L4)	P(L4)	
Community Education	C	C	C	C	
Nonassembly Cultural	P(L4)	P(L4)	P(L4)	P(L4)	
Administrative	P(L4)	P(L4)	P(L4)	P(L4)	
Health Care	C	C	C	C	
Special Health Care	C(L6)	C(L6)	C(L6)	C(L6)	17.103.020
Utility and Vehicular	C	C	C	C	
Extensive Impact	C	C	C	C	
Commercial Activities					
General Food Sales	P(L3)	P(L3)	P(L3)	P(L3)	
Full Service Restaurant	P(L5)	P(L5)	P(L5)	P(L3)	
Limited Service Restaurant and Cafe	P(L5)	P(L5)	P(L5)	P(L3)	
Fast-Food Restaurant	—	—	—	—	17.103.030
Convenience Market	C	C	C	C	17.103.030
Alcoholic Beverage Sales	C	C	C	C	17.103.030

Activity	Regulations				Additional Regulations
	HBX-1	**HBX-2**	**HBX-3**	**HBX-4**	
Mechanical or Electronic Games	C	C	C	C	
Medical Service	P(L4)	P(L4)	P(L4)	P(L4)	
General Retail Sales	P	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	
Consumer Service	P(L7)	P(L7)	P(L7)	P(L7)	
Consultative and Financial Service	P(L4)	P(L4)	P(L4)	P(L4)	
Check Cashier and Check Cashing	—	—	—	—	17.103.040
Consumer Cleaning and Repair Service	C	C	C	C	
Consumer Dry Cleaning Plant	C	C	C	C	
Group Assembly	C(L8)	C(L8)	C(L8)	C(L8)	
Personal Instruction and Improvement Services	C	C	C	P	
Administrative	P(L4)	P(L4)	P(L4)	P(L4)	
Business, Communication, and Media Service	P	P	P	P	
Broadcasting and Recording Service	P	P	P	P	
Research Service	P(L4)(L9)	P(L4)(L9)	P(L4)(L9)	P(L4)(L9)	
General Wholesale Sales	P(L4)	P(L4)	P(L4)	P(L4)	
Transient Habitation	—	—	—	C	17.103.050
Building Material Sales	P(L9)(L10)	P(L9)(L10)	P(L9)(L10)	P(L9)(L10)	
Automotive and other Light Vehicle Sales and Rental	—	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—(L11)	—	—	—	
Automotive and Other Light Vehicle Repair and Cleaning	—(L11)	—	—	C(L9)	
Taxi and Light Fleet-Based Service	C	C	C	C	
Automotive Fee Parking	—	—	—	—	
Animal Boarding	C(L15)	C(L15)	C(L15)	C(L15)	
Animal Care	C	C	C	C	
Undertaking Service	—	—	—	—	
Industrial Activities					

Activity	Regulations				Additional Regulations
	HBX-1	**HBX-2**	**HBX-3**	**HBX-4**	
Custom Manufacturing	P(L4)	P(L4)	P(L4)	P(L4)	17.120
Light Manufacturing	P(L4)(L9)	P(L4)(L9)	P(L4)(L9)	P(L4)(L9)	17.120
General Manufacturing	—	—	—	P(L3)(L9)	
Heavy/High Impact Manufacturing	—	—	—	—	
Research and Development	P(L4)(L9)	P(L4)(L9)	P(L4)(L9)	P(L4)(L9)	
Construction Operations	P(L9)(L10)	P(L9)(L10)	P(L9)(L10)	P(L9)(L10)	
Warehousing, Storage and Distribution-Related					
A. General Warehousing, Storage and Distribution	P(L3)(L9)	P(L3)(L9)	P(L3)(L9)	P(L4)(L9)	
B. General Outdoor Storage	C	C	C	C	
C. Self- or Mini-Storage	C(L12)	C(L12)	C(L12)	C(L12)	
D. Container Storage	—	—	—	—	
E. Salvage/Junk Yards	—	—	—	—	
Regional Freight Transportation	—	—	—	—	
Trucking and Truck-Related	—	—		—	
Recycling and Waste-Related					
A. Satellite Recycling Collection Centers	—	—	—	—	
A. Primary Recycling Collection Centers	—	—	—	—	
Hazardous Materials Production, Storage, and Waste Management-Related	—	—	—	—	
Agricultural and Extractive Activities					
Plant Nursery	C	C	C	C	
Limited Agriculture	P(L13)	P(L13)	P(L13)	P(L13)	
Extensive Agriculture	C(L14)	C(L14)	C(L14)	C(L14)	
Mining and Quarrying Extractive	—	—	—	—	
Accessory off-street parking serving prohibited activities	C	C	C	C	17.116.175
Additional activities which are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof	C	C	C	C	17.102.110

Limitations:

L1. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. Emergency shelters are permitted by-right within the portion of the East 12th Street corridor described in Section 17.103.015(A)(6) and subject to the development standards in Section 17.103.015(B); permitted upon the granting of a Conditional Use Permit elsewhere in the zone subject to Limitation L1 above.

L3. The total floor area devoted to these activities shall only exceed ten thousand (10,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).

L4. The total floor area devoted to these activities shall only exceed twenty-five thousand (25,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).

L5. The total floor area devoted to a Full-Service or Limited-Service Restaurant Commercial Activity shall only exceed three thousand (3,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).

L6. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity, or five hundred (500) feet from any K-12 school or Licensed Emergency Shelters. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L7. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L8. No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L9. Outdoor principal activities shall only be permitted upon the granting of a conditional use permit (see Chapter 17.134).

L10. This activity shall only permitted upon the granting of a conditional use permit (see Chapter 17.134) if it is on a lot that is more than twenty-five thousand (25,000) square feet, or covers more than twenty-five thousand (25,000) square feet of lot area.

L11. Except on Lowell Street, a nonconforming Automobile and Other Light Vehicle Gas Station and Servicing or Automotive and Other Light Vehicle 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 Section 17.114 for general regulations regarding nonconforming uses.

L12. All facilities containing Self- or Mini-Storage activities shall meet the following requirements:

1. No more than twenty percent (20%) of the total floor area on a lot shall be occupied by facilities containing Self- or Mini-Storage activities.

2. No facility that includes a Self- or Mini-Storage Activity shall be within the front twenty (20) feet of a building.

3. Projects that include self-storage establishments shall have a minimum fifty percent (50%) 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.

L13. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any on-site sales occur no more than two (2) times per week between the hours of 8:00 am and 9:00 pm in a temporary movable structure not exceeding two hundred (200) square feet in size; conditionally permitted if the activity is larger in either land area, or in sales area, frequency, or hours of operation (see Chapter 17.134 for the CUP procedure).

L14. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

L15. These activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) if located in the West Oakland District (defined for the purposes of this Chapter as all areas between Interstate 980 to the east, Interstate 880 to the south and west, and Interstate 580 to the north).

L16. Community Gardens are permitted outright if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. The cultivation of animals, animal products and/or livestock production, except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12772 § 1 (part), 2006)

17.65.040 Permitted and conditionally permitted facilities.

For the purposes of this Chapter only, the following definitions are added as facility types. Definitions for the other facility types listed in the table below are contained in the Oakland Planning Code Chapter 17.10.

A. Definitions.

1. **"Live/Work"** means a room or suite of rooms that are internally connected maintaining a common household that includes: (a) cooking space and sanitary facilities that satisfy the provisions of other applicable codes; and (b) adequate working space reserved for, and regularly used by, one or more persons residing therein. A Live/Work unit is intended to accommodate both Residential and Nonresidential Activities.
2. **"Work/Live"** means a room or suite of rooms that are internally connected maintaining a common household that includes: (a) cooking space and sanitary facilities that satisfy the provisions of other applicable codes, and (b) adequate working space reserved for, and regularly used by, one or more persons residing therein. A Work/Live unit is intended to accommodate a primary Nonresidential Activity with an accessory residential component.

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	Zones				Additional Regulations
	HBX-1	**HBX-2**	**HBX-3**	**HBX-4**	
Residential Facilities					
One-Family Dwellings	P	P(L3)	P(L3)	C(L3)	
One-Family Dwelling with Secondary Unit	P	P	P	C	17.103.080
Two-Family Dwelling	P	P	P	C	
Multifamily Dwelling	P	P	P	C	
Rooming House	P	P	P	C	
Mobile Home	—	—	—	C	
Live/Work	P	P	P	P	17.65.160
Nonresidential Facilities					
Enclosed Nonresidential	P	P	P	P	
Open Nonresidential	C(L2)	C(L2)	C(L2)	C(L2)	
Work/Live	P	P	P	P	17.65.150
Sidewalk Cafe	P	P	P	P	17.103.090
Drive-In Nonresidential	P	P	P	C	
Drive-Through Nonresidential	C(L1)	C(L1)	C(L1)	C(L1)	17.103.100
Telecommunications Facilities					
Micro Telecommunications	C	C	C	C	17.128

Facility Types	Zones				Additional Regulations
	HBX-1	**HBX-2**	**HBX-3**	**HBX-4**	
Mini Telecommunications	C	C	C	C	17.128
Macro Telecommunications	C	C	C	C	17.128
Monopole Telecommunications	C	C	C	C	17.128
Tower Telecommunications	—	—	—	—	17.128
Sign Facilities					
Residential Signs	P	P	P	P	17.104
Special Signs	P	P	P	P	17.104
Development Signs	P	P	P	P	17.104
Realty Signs	P	P	P	P	17.104
Civic Signs	P	P	P	P	17.104
Business Signs	P	P	P	P	17.104
Advertising Signs	—	—	—	—	17.104

Limitation:

L1. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

L2. No Conditional Use Permit (CUP) is required for Open Nonresidential Facilities to accommodate Civic Activities, Limited Agriculture, seasonal sales, or special events.

L3. In the HBX-2, HBX-3, and HBX-4 Zones, new construction on a vacant lot that is greater than five thousand (5,000) square feet shall only result in a total of one (1) unit on the lot upon the granting of a conditional use permit (see Chapter 17.134). This requirement does not apply to the expansion of the floor area or other alteration of an existing Single Family Dwelling.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13060, § 2(Exh. A), 3-1-2011; Ord. 12872 § 4 (part), 2008; Ord. 12772 § 1 (part), 2006)

17.65.050 Reserved.

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Section 17.65.050 in its entirety, which pertained to special regulations for self storage facilities, and derived from Ord. No. 12772, § 1(part), adopted 2006; Ord. No. 12939, § 4(Exh. A), 6-16-2009, and Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011.

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	Zones			
	HBX-1	**HBX-2**	**HBX-3**	**HBX-4**
Minimum lot area	4,000 sf.	4,000 sf.	4,000 sf.	4,000 sf.
Minimum lot width mean	35 ft.	35 ft.	35 ft.	35 ft.
Minimum lot frontage	35 ft.	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 17.106.010.A and all other applicable requirements.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872, § 4 (part), 2008; 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**	**HBX-4**
Dwelling Unit	1,000 sf. of lot area per unit	930 sf. of lot area per unit	730 sf. of lot area per unit	800 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	400 sf. of lot area per unit

Notes:
1. See (1) Section 17.103.080 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.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; 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	HBX-4
Maximum Floor Area Ratio (FAR)	1.75	2.5 when the lot abuts a street right-of-way that is less than 80 ft. wide; 3.0 otherwise.	2.5 permitted; 3.0 may be allowed upon the granting of a conditional use permit.	2.5 permitted; 3.0 may be allowed upon the granting of a conditional use permit.

Notes:
1. Under no circumstances shall a project exceed the maximum FARs for all structures listed in this table or the Nonresidential FARs listed in Subsection B.

2. See Section 17.65.090 for how to calculate Floor Area Ratio (FAR) in mixed use projects.

3. A conditional use permit for an FAR of up to 3.0 in the HBX-3 and HBX-4 Zones may only be granted 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	HBX-4
Nonresidential FAR	1.75	3.0	1.0	2.5

Notes:
1. Under no circumstances shall a project exceed the maximum Nonresidential FARs listed in this table or the FARs for all structures listed in Subsection A.

2. See Section 17.65.090 for how to calculate FAR in mixed use projects.

(Ord. 12872 § 4 (part), 2008; Ord. 12772 § 1 (part), 2006)

17.65.090 Maximum density and Floor-Area Ratio for mixed use projects.

A. This Section shall only apply to the following two (2) types of mixed use projects:

1. Projects that have at least twenty percent (20%) of its total floor area devoted to Nonresidential Facilities or

2. Projects that:

a. Are on lots that are fifty (50) feet wide or less and

b. Have a minimum fifty percent (50%) of lot frontage occupied by Ground Floor Convenience Sales and Service, General Food Sales, General Retail Sales, and/or General Personal Service Commercial Activities. This commercial floor area must be at least twenty (20) feet deep measured from the building frontage and be within an enclosed building. Projects on through lots require this minimum fifty percent (50%) on only the longest lot frontage to qualify as a mixed use project for this Section.

B. For projects described in Subsection A, the maximum number of units permitted on a lot shall not be affected by the nonresidential floor area provided on the same lot. Conversely, for these projects the maximum floor area allowed on a lot shall not be affected by the number of living units provided on the same lot. For projects described in Subsection A, this Subsection supersedes the requirements in Section 17.106.030

C. Section 17.106.030.B describes how to calculate maximum density and floor-area ratio for mixed use projects not included in Subsection A.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; 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**	**HBX-4**
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.	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 a RH, RD, or RM Residential Zone. This maximum height shall increase one (1) 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 (30) feet requires the granting of a conditional use permit (see Chapter 17.134).

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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 one hundred twenty-five (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. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; 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 (2) 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 (½) 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

(Ord. 12872 § 4 (part), 2008)

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**	**HBX-4**
200 sf./unit	150 sf./unit	150 sf./unit	100 sf./unit

Note:

Usable open space is only required on lots with two (2) or more dwelling units, and not required for a One-Family Dwelling with Secondary Unit. Each one (1) square foot of private usable open space equals two (2) 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. 12872 § 4 (part), 2008)

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 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.

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) 15-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 (6½) feet, the trees shall be street trees to the satisfaction of the City's Tree Division.
4. At least one (1) 15-gallon tree in the parking lot for every six (6) parking spaces for projects that involve new or existing parking lots of three thousand (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 area, the width of the required landscaping area shall be increased by two (2) feet unless wheel stops are installed.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; 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. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12772, § 1 (part), 2006)

17.65.150 Special regulations for HBX Work/Live units.

A. Definitions. The following definitions apply to this Chapter only:

1. In the HBX-4 Zone, an **"HBX Work/Live unit"** shall be considered a Commercially/ Industrially Oriented Joint Living and Working Quarter under the Building Code. Any building permit plans for the construction or establishment of HBX Work/Live units in the HBX-4 Zone shall: (a) clearly state that the proposal includes Commercially/Industrially Oriented Joint Living and Working Quarters, and (b) label such units as Commercially/ Industrially Oriented Joint Living and Working Quarters.

This requirement is to assure the City applies building codes that allow a certain level of industrial activities in HBX-4 Work/Live units.

2. In the HBX-1, HBX-2, and HBX-3 Zones, 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 in the HBX-1, HBX-2, and HBX-3 Zones accommodates both Residential and Nonresidential Activities, but emphasizes the accommodation of commercial activities. Such HBX Work/Live units shall meet 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. In the HBX-1, HBX-2, and HBX-3 Zones, 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. In the HBX-4 Zone, however, regulations in this Chapter relating to HBX Work/Live units shall supersede the regulations contained in Section 17.102.190.

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, loading, and open space required for each HBX Work/Live unit:

Standard	**Requirement**		**Note**
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 (1) parking space per unit.		1
Required bicycle parking	**With private garage for each unit:**	**Without private garage for each unit:**	2
	One (1) short-term space for each 20 dwelling units; minimum requirement is two (2) short-term spaces.	One (1) long-term space for each four (4) dwelling units; minimum requirement is two (2) long-term spaces. One (1) short-term space for each 20 dwelling units; minimum requirement is two (2) short-term spaces.	
Required loading	**Square feet of facility**	**Requirement**	3
	Less than 25,000 square feet	No berth required	
	25,000—69,999 square feet	One (1) berth	
	70,000—130,000 square feet	Two (2) berths	
	Each additional 200,000 square feet	One (1) additional berth	

Standard	Requirement	Note
Residential Density	Not applicable because HBX Work/Live units are Nonresidential Facilities.	
Required usable open space	75 square feet of usable open space per unit	
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. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement. Also, 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.

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

Unit Type	Maximum residential floor area (percent of total floor area)	Special requirements	Separation between residential and nonresidential floor area
Type 1	One-third	In the HBX-4 Zone, all remaining floor area to be used for the primary Nonresidential Activity.	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 ground floor units - one adjacent to the residential space and the other adjacent to the nonresidential space; the nonresidential ground floor 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	55 percent	1. The majority of the nonresidential	Nonresidential floor area and

Unit Type	Maximum residential floor area (percent of total floor area)	Special requirements	Separation between residential and nonresidential floor area
3		floor area for the ground floor units must be at a public street level and directly accessible to the street; and 2. The ground floor units must have a clearly designated business entrance.	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).

Notes:

1. In Types 1, 2, and 3, a kitchen may be open to nonresidential floor area if it is adjacent to and directly accessible from residential floor area or stairs that lead to residential floor area. Counters, cabinets, sink and appliances and the floor area that is four (4) feet in front of these items shall be considered residential floor area.

2. Except as indicated for the HBX-4 Zone, see Section 17.102.190 for regulations regarding converting facilities originally designed for industrial or commercial occupancy to joint living and working quarters.

F. 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 as residential or nonresidential based on whether it is most conveniently accessed from the residential or nonresidential portion of the unit. If there is only one (1) bathroom in the unit, one-half (½) of the bathroom shall be considered residential floor area and one-half (½) shall be considered nonresidential floor area;
6. In kitchens open to non-residential floor area, counters, cabinets, sink and appliances and the floor area that is four (4) 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, then the entire loft or mezzanine space shall be considered residential floor area.
8. The Planning Director shall determine the floor area designation when the above standards do not clearly apply.

G. Each ground floor HBX work/live unit shall have at least one (1) 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.

H. Each unit shall contain at least one (1) 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.

I. 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 (1) 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.

J. 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; and (4) has a minimum dimension of nine (9) by eleven (11) inches and lettering at least one-half (½) 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.

K. HBX Work/Live units are Nonresidential Facilities and counted towards the nonresidential floor area ratio, not the residential density.

L. **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.

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, roll-up doors, a business door 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 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. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12872 § 4 (part), 2008; 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. In the HBX-1, HBX-2, and HBX-3 Zones, 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. In the HBX-4 Zone, however, regulations in this Chapter relating to HBX Live/Work units shall supersede the regulations contained in Section 17.102.190.

D. Activity, parking, bicycle parking, loading, open space, and unit size standards. The following table contains the activities allowed in an HBX Live/Work unit, required off-street auto parking, required bicycle parking, 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 (1) parking space per unit	1

Standard	Requirement		Note
Required bicycle parking	**With private garage for each unit:**	**Without private garage for each unit:**	
	One (1) short-term space for each 20 dwelling units; minimum requirement is two (2) short-term spaces.	One (1) long-term space for each four (4) dwelling units; minimum requirement is two (2) long-term spaces. One (1) short-term space for each 20 dwelling units; minimum requirement is two (2) short-term spaces.	2
Required loading	**Square feet of facility**	**Requirement**	
	Less than 50,000 square feet	No berth required	3
	50,000—149,999 square feet	One (1) berth	
	150,000—299,999 square feet	Two (2) berths	
	Each additional 300,000 square feet	One (1) 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 supersede 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; and (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. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12872 § 4 (part), 2008; 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 Zones may be waived or modified when and as prescribed in Chapter 17.142.

B. **Planned Unit Developments.** Large integrated developments in the HBX Zones 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 Zones, and certain of the other regulations applying in said zones may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified

in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; 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. See Section 17.112.060 for home occupation regulations specific to the West Oakland Specific Plan Area.

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 HBX Zones.

F. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the HBX Zones.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12884 § 2 (part), 2008; Ord. 12872 § 4 (part), 2008; Ord. 12772, § 1 (part), 2006)

Chapter 17.66 RESERVED [29]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.66, §§ 17.66.010—17.66.160 in its entirety, which pertained to M-10 special industrial zone regulations and derived from the prior planning code, §§ 5400, 5402—5406, 5408—5410, 5413, 5414, 5417, 5419, 5420, 5422, 5424; Ord. No. 11807, § 4, adopted 1995; Ord. No. 11904, §§ 5.64, 5.66, 5.68, 5.69, 5.73, adopted 1996; Ord. No. 11956, § 4, 1996; Ord. No. 12072, § 6, adopted 1998; Ord. No. 12147, § 3, adopted 1999; Ord. No. 12450, § 14, adopted 2002; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.68 RESERVED [30]

FOOTNOTE(S):

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Editor's note— Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Chapter 17.68, §§ 17.68.010—17.68.150 in its entirety, which pertained to M-20 light industrial zone regulations and derived from the prior planning code, §§ 5600, 5602—5606, 5608—5610, 5613, 5614, 5619, 5620, 5622, 5624; Ord. No. 11807, § 4, adopted 1997; Ord. No. 11904, §§ 5.64, 5.66, 5.68, 5.70, 5.73, adopted 1996; Ord. No. 11956, § 4, adopted 1996; Ord. No. 12021, § 8, adopted 1997; Ord. No. 12072, §§ 6, 7, adopted 1998; Ord. No. 12147, § 3, adopted 1999; Ord. No. 12289, § 4, adopted 2000; Ord. No. 12450, § 15, adopted 2002; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010; Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010, and Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011. (Back)

Chapter 17.70 RESERVED [31]

FOOTNOTE(S):

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Editor's note— Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Chapter 17.70, §§ 17.70.010—17.70.150 in its entirety, which pertained to M-30 general industrial zone regulations and derived from the prior planning code, §§ 5700, 5702—5706, 5708—5710, 5713, 5714, 5719, 5720, 5722, 5724; Ord. No. 11807, § 4, adopted 1995; Ord. No. 11854, § 12, adopted 1996; Ord. No. 11904, §§ 5.65, 5.71, 5.73, 5.74, 5.76, adopted 1996; Ord. No. 11956, §§ 5, 6, adopted 1996; Ord. No. 12021, § 9, adopted 1997; Ord. No. 12072, §§ 8, 9, adopted 1998; Ord. No. 12147, § 3, adopted 1999; Ord. No. 12450, § 16, adopted 2002; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010; Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010, and Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011. (Back)

Chapter 17.72 M-20, M-30, AND M-40 INDUSTRIAL ZONES REGULATIONS [32]

Sections:

17.72.010 Title, intent, and description.

17.72.020 Required design review process.

17.72.030 Permitted and conditionally permitted activities.

17.72.040 Permitted and conditionally permitted facilities.

17.72.050 Property development standards.

17.72.060 Special Regulations for Mini-lot and Planned Unit Developments.

17.72.070 Other zoning provisions.

17.72.010 Title, intent, and description.

A. Title and Intent. The provisions of this Chapter shall be known as the M-20, M-30, and M-40 Industrial Zones Regulations. This Chapter establishes regulations for the (M-20) Light Industrial, (M-30) General Industrial, and (M-40) Heavy Industrial Zones. The intent of the M-20, M-30, and M-40 Industrial Zones is to create, preserve and enhance areas containing manufacturing, industrial, and related establishments.

B. Description of Zones. This Chapter establishes land use regulations for the following three (3) zones:

1. **M-20 Light Industrial Zone.** The M-20 Zone is intended to create, preserve, and enhance areas containing manufacturing, industrial and related establishments with limited external impact within an open and attractive setting, and is typically appropriate to locations adjacent to residential communities.

2. **M-30 General Industrial Zone.** The M-30 Zone is intended to create, preserve, and enhance areas containing a wide range of manufacturing, industrial, and related establishments, and is typically appropriate to areas providing a wide variety of sites with good rail or highway access.

3. **M-40 Heavy Industrial Zone.** The M-40 Zone is intended to create, preserve, and enhance areas containing manufacturing, industrial, or related establishments that are potentially incompatible with most other establishments, and is typically appropriate to areas which are distant from residential areas and which have extensive rail or shipping facilities.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.72.020 Required design review process.

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Residential Facility, Designated Historic Property, Potentially Designated Historic Property, 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. No facility located within one hundred fifty (150) feet of any Residential Zone boundary and accommodating the following activities shall be constructed, established, or expanded in size unless plans for the proposal have been approved pursuant to the Regular Design Review procedure in Chapter 17.136:

1. Automobile and Other Light Vehicle Gas Station and Servicing Activity.
2. Automobile and Other Light Vehicle Repair and Cleaning Activity.
3. Freight/Truck Terminal.
4. Truck Yard.
5. Truck Weigh Stations.
6. Truck and Other Heavy Vehicle Sales, Rental, and Leasing.
7. Truck and Other Heavy Vehicle Service, Repair, and Refueling.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.72.030 Permitted and conditionally permitted activities.

Table 17.72.01 lists the permitted, conditionally permitted, and prohibited activities in the M-20, M-30, and M-40 Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.72.01: Permitted and Conditionally Permitted Activities

Activities	Zones			Additional Regulations
	M-20	**M-30**	**M-40**	
Residential Activities				
Permanent	—	—	—	
Residential Care	—	—	—	
Supportive Housing	—	—	—	
Transitional Housing	—	—	—	
Emergency Shelter	—	P(L1)	—	
Semi-Transient	—	—	—	
Bed and Breakfast	—	—	—	

Activities	Zones			Additional Regulations
	M-20	**M-30**	**M-40**	
Civic Activities				
Essential Service	P(L16)	P	P	
Limited Child-Care Activities	P	P	P	
Community Assembly	C	C	C	
Recreational Assembly	C	C	C	
Community Education	C	C	C	
Nonassembly Cultural	P	—	P	
Administrative	P(L2)	P(L2)	P(L2)	
Health Care	C	—	—	
Special Health Care	C(L3)	C(L3)	C(L3)	17.103.020
Utility and Vehicular	C	P(L4)	P(L4)	
Extensive Impact	C	C	C	
Commercial Activities				
General Food Sales	P	P	P	
Full Service Restaurants	P	P	P	
Limited Service Restaurant and Cafe	P	P	P	
Fast-Food Restaurant	C	C	C	17.103.030 and 8.09
Convenience Market	C	P	P	17.103.030
Alcoholic Beverage Sales	C	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	P	P	P	
Medical Service	P(L2)	P	P	
General Retail Sales	P(L5)	P(L5)	P(L5)	
Large-Scale Combined Retail and Grocery Sales	—	—	—	
Consumer Service	P(L5)(L6)	P(L5)(L6)	P(L5)(L6)	
Consultative and Financial Service	P(L2)	P(L2)	P(L2)	
Check Cashier and Check Cashing	—	—	—	
Consumer Cleaning and Repair Service	C	C	C	
Consumer Dry Cleaning Plant	C	C	C	
Group Assembly	—	C(L7)	C(L7)	

Activities	Zones			Additional Regulations
	M-20	**M-30**	**M-40**	
Personal Instruction and Improvement Services	—	C	C	
Administrative	P(L2)	P(L2)	P(L2)	
Business, Communication, and Media Services	P	P	P	
Broadcasting and Recording Services	P	P	P	
Research Service	P	P	P	
General Wholesale Sales	P	P	P	
Transient Habitation	—	—	—	
Building Material Sales	C	P	P	
Automobile and Other Light Vehicle Sales and Rental	P	C	P	
Automobile and Other Light Vehicle Gas Station and Servicing	C(L8)	P(L8)	P(L8)	
Automobile and Other Light Vehicle Repair and Cleaning	P(L8)	P(L8)	P(L8)	
Taxi and Light Fleet-Based Services	C	P	P	
Automotive Fee Parking	P	—	P	
Animal Boarding	C	C	C	
Animal Care	C	C	C	
Undertaking Service	—	—	—	
Industrial Activities				
Custom Manufacturing	P(L9)	P	P	
Light Manufacturing	P(L10)	P	P	
General Manufacturing	C(L10)	C(L10)	C(L10)	
Heavy/High Impact	—	—	C	
Research and Development	C	C	P	
Construction Operations	C	P	P	
Warehousing, Storage, and Distribution-Related				
A. General Warehousing, Storage and Distribution	C	P	P	
B. General Outdoor Storage	C	P	P	
C. Self- or Mini-Storage	P	P	P	
D. Container Storage	C	P	P	
E. Salvage/Junk Yards	C	C	P(L11)	

Activities	Zones			Additional Regulations
	M-20	**M-30**	**M-40**	
Regional Freight Transportation	C	C	C	
Trucking and Truck-Related				
A. Freight/Truck Terminal	C	P(L8)(L12)	P(L8)(L12)	
B. Truck Yard	C	P(L8)(L12)	P(L8)(L12)	
C. Truck Weigh Stations	C	P(L8)(L12)	P(L8)(L12)	
D. Truck and Other Heavy Vehicle Sales. Rental and Leasing	C	P(L9)(L13)	P(L9)(L13)	
E. Truck and Other Heavy Vehicle Service, Repair and Refueling	C	P(L8)(L12)	P(L8)(L12)	
Recycling and Waste-Related				
A. Satellite Recycling Collection Centers	C	C	C	
B. Primary Recycling Collection Centers	—	C	P	17.103.060
Hazardous Materials Production, Storage, and Waste Management-Related	C(L13)	C(L13)	C(L13)	
Agriculture and Extractive Activities				
Plant Nursery	C	P	P	
Limited Agriculture	P(L14)	P(L14)	P(L14)	
Extensive Agriculture	C(L15)	C(L15)	C(L15)	
Mining and Quarrying	C	C	C	
Accessory off-street parking serving prohibited activities	P	P	P	17.116.075
Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof	C	C	C	17.102.110

Limitations on Table 17.72.01:

L1. Emergency Shelters are permitted by-right within the portion of the Third Street corridor area described in Section 17.103.015(A)(5) and subject to the development standards in Section 17.103.015(B); permitted upon the granting of a Conditional Use Permit elsewhere in the zone subject to the following:

a. No Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility.

L2. The total floor area devoted to these activities on any single lot may only exceed fifteen thousand (15,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L3. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity, or five hundred (500) feet from any K-12 school or Licensed Emergency Shelters. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L4. Communications equipment installation and exchanges are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L5. The total floor area devoted to these activities on any single lot may only exceed three thousand (3,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L6. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L7. No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L8. No facility accommodating these activities that is located within one hundred fifty (150) feet of any Residential Zone boundary shall be constructed, established, or altered in exterior appearance, unless the proposal have been approved pursuant to the Design Review Procedure (see Chapter 17.136 for the Design Review Procedure).

L9. These activities are only permitted upon the granting of a Conditional Use Permit if located within one hundred fifty (150) feet of a Residential Zone (see Chapter 17.134 for the CUP procedure).

L10. Electroplating Activities are prohibited.

L11. Salvage/Junk Yards Industrial Activities in the M-40 Zone are only permitted upon the granting of a Conditional Use Permit if located within four hundred (400) feet of any zone except the M-30 Zone (see Chapter 17.134 for the CUP procedure). The following regulations shall apply to all Salvage/Junk Yards Industrial Activities in the M-40 Zone that do not require for a conditional use permit: Except for accessory off-street parking, landscaping, and screening, said activities shall be conducted entirely within an enclosed building or behind a solid lumber, masonry, or sheet metal fence or wall not less than ten (10) feet high, subject to the standards for required landscaping and screening in Chapter 17.124. All openings in such fence or wall shall be equipped with solid gates or doors of the same height as the fence or wall, and said gates or doors shall be kept securely closed at such times as the establishment is not open for business. Open storage of vehicles and other scrap material shall not exceed twenty (20) feet in height.

L12. Only permitted upon the granting of a Conditional Use Permit (see Section 17.134 for the CUP procedure) in all areas between Interstate 980 to the east, Interstate 880 to the south and west, and Interstate 580 to the north.

L13. These activities are prohibited when located within two thousand (2,000) feet from a Residential Facility. When not within two thousand (2,000) feet of a Residential Facility, Hazardous Materials Production, Storage, and Waste Management is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. That the project is not detrimental to the public health, safety or general welfare of the community;

2. That the project is or will be adequately served by roads and other public or private service facilities;

3. That the project is consistent with the regional fair-share facility needs assessment and siting criteria established in the Alameda County Hazardous Waste Management Plan;

4. That the cumulative effects of locating the project within the proposed area have been analyzed and where applicable, measures have been incorporated into the project.

L14. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure).

L15. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

L16. Community Gardens are permitted outright if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. The cultivation of animals, animal products and/or livestock production, except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.72.040 Permitted and conditionally permitted facilities.

Table 17.72.02 lists the permitted, conditionally permitted, and prohibited facilities in the M-20, M-30, and M-40 Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

Table 17.72.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones			Additional Regulations
	M-20	**M-30**	**M-40**	
Residential Facilities				
One-Family Dwelling	—	—(L4)	—	
One-Family Dwelling with Secondary Unit	—	—(L4)	—	17.103.080
Two-Family Dwelling	—	—(L4)	—	
Multifamily Dwelling	—	—(L4)	—	
Rooming House	—	—(L4)	—	
Mobile Home	—	—(L4)	—	
Nonresidential Facilities				
Enclosed Nonresidential	P	P	P	
Open Nonresidential	C(L1)(L3)	P(L1)	P(L1)	
Sidewalk Cafe	P	P	P	17.103.090
Drive-In	C	P	P	
Drive-Through	C	C	C	17.103.100
Telecommunications Facilities				
Micro Telecommunications	P	P	P	17.128
Mini Telecommunications	P	P	P	17.128
Macro Telecommunications	P	P	P	17.128
Monopole Telecommunications	C	P	P	17.128
Tower Telecommunications	—	C	C	17.128
Sign Facilities				
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

Limitations on Table 17.72.02:

L1. Off-street parking facilities serving fifty (50) or more vehicles are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L2. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

L3. No Conditional Use Permit (CUP) is required for Open Nonresidential Facilities to accommodate Civic Activities, Limited Agriculture, seasonal sales, or special events.

L4. All new Residential Facilities are prohibited, except those serving a permitted Emergency Shelter Activity as indicated in Table 17.72.01, Limitation L1.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.72.050 Property development standards.

A. Zone Specific Standards. Table 17.72.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "—" indicates that a standard is not required in the specified zone.

Table 17.72.03: Property Development Standards

Development Standards	Zones			Additional Regulations
	M-20	**M-30**	**M-40**	
Minimum Lot Frontage	25 feet	25 feet	25 feet	1
Minimum/Maximum Setbacks				
Minimum front	5 ft.	0 ft.	0 ft.	2, 3
Minimum interior side	0 ft.	0 ft.	0 ft.	4
Minimum street side	0 ft.	0 ft.	0 ft.	5
Rear (Nonresidential Facilities)	0/10/15 ft.	0/10/15 ft.	0/10/15 ft.	6, 7
Maximum Height	None	None	None	8
Minimum Required Parking	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking regulations			
Courtyard Regulations	See Section 17.108.120			

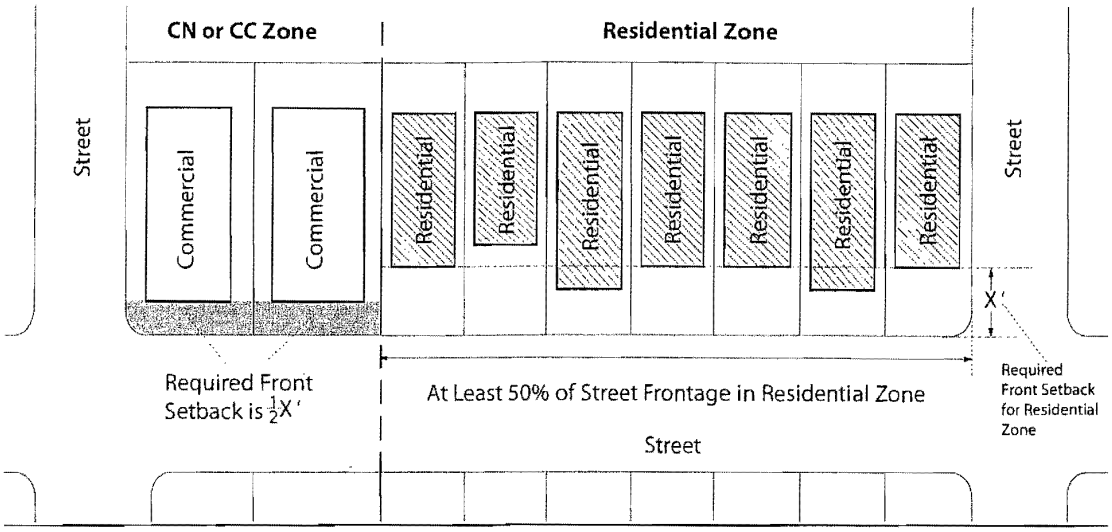
Additional Regulations for Table 17.72.03:

1. See Section 17.106.020 for exceptions to street frontage regulations.

2. If fifty percent (50%) or more of the frontage on one (1) side of the street between two (2) intersecting streets is in any Residential Zone and all or part of the remaining frontage is in any Commercial or Industrial Zone, the required front setback of the commercially or industrially zoned lots is one-half (½) of the minimum front setback required in the Residential Zone. If fifty percent (50%) or more of the total frontage is in more than one (1) Residential Zone, then the minimum front setback on the commercially or industrially zoned lots is one-half (½) of that required in the Residential Zone with the lesser front setback (see Illustration for Table 17.72.03 [Additional Regulation 2], below).

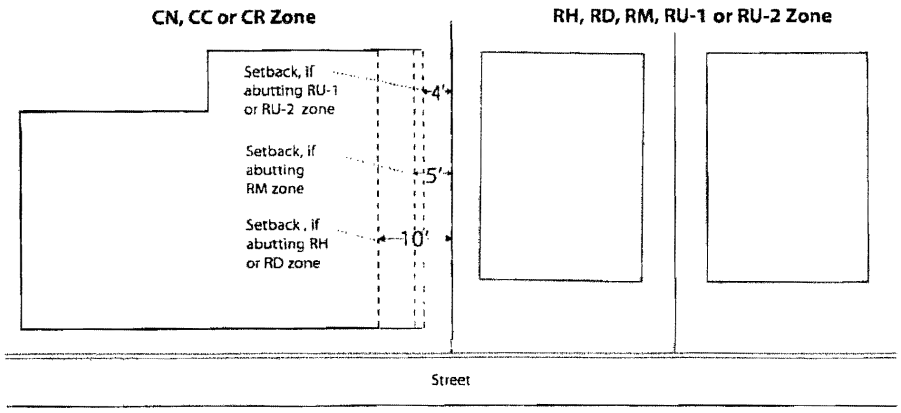
3. In the M-20 Zone, this minimum front yard shall, except for accessory driveways and walkways, be developed with lawn, ground cover, harden, shrubs, or trees, subject to the standards for required landscaping and screening in Chapter 17.124.

Illustration for Table 17.72.03 [Additional Regulation 2]
*for illustration purposes only



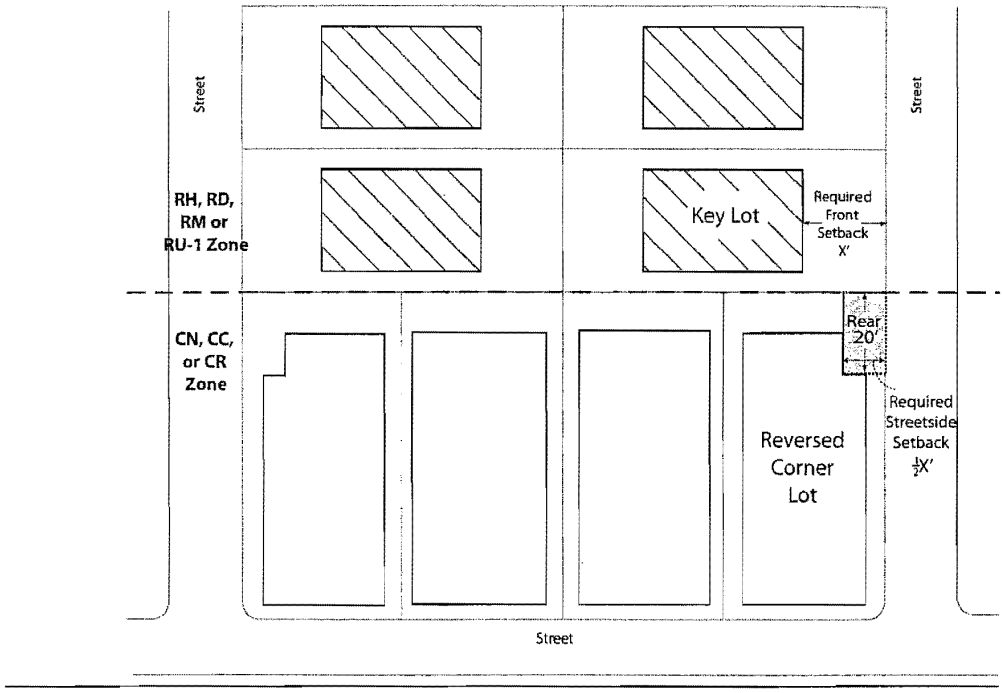
4. Wherever an interior side lot line abuts an interior side lot line of any lot located in an RH or RD Zone, the setback of the abutting portion of its side lot line is ten (10) feet. In the case where an interior side lot line abuts an interior side lot line in an RM Zone, the setback of the abutting portion of its side lot line is five (5) feet. In the case where an interior side lot line abuts a side yard of an RU-1 or RU-2 lot, a side setback of four (4) feet is required (see Illustration for Table 17.68.03 [Additional Regulation 4], below). Also, see Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.72.03 [Additional Regulation 4]
*for illustration purposes only



5. When the rear yard of a reversed corner lot abuts a key lot that is in an RH, RD, or RM Zone, the required street side yard setback in the rear twenty (20) feet of the reversed corner lot is one-half (½) of the minimum front yard required on the key lot (see Illustration for Table 17.33.03 [Additional Regulation 5], below). Also, see Section 17.108.130 for allowed projections into the setbacks.

Illustration for Table 17.72.03 [Additional Regulation 5]
*for illustration purposes only

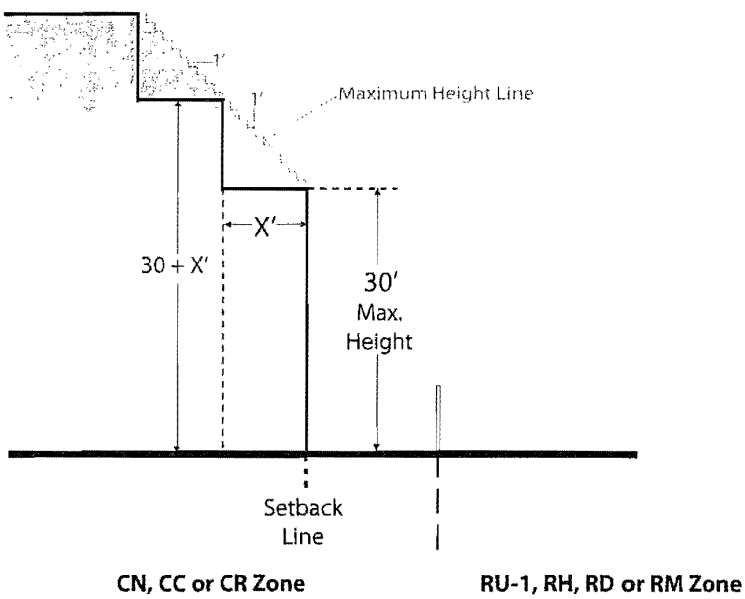


6. Wherever a rear lot line abuts an alley, one-half (½) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

7. When a rear lot line is adjacent to an RH, RD, or RM Zone, the required rear setback for both Residential and Nonresidential Facilities is ten (10) feet if the lot depth is one hundred (100) feet or less and fifteen (15) feet if the lot depth is more than one hundred (100) feet. When a rear lot line is not adjacent to an RH, RD, or RM Zone, the required rear setback is ten (10) feet for Residential Facilities and there is no required setback for Nonresidential Facilities.

8. 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 an RH, RD, or RM Zone; this maximum height shall increase one (1) foot for every foot of distance away from this setback line (see Illustration for Table 17.35.04 [Additional Regulation 8, below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

Illustration for Table 17.72.03 [Additional Regulation 8]
*for illustration purposes only



(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.72.060 Special Regulations for Mini-Lot and Planned Unit Developments.

A. **Mini-lot Developments.** In Mini-Lot Developments, certain regulations that apply to individual lots in the M-20, M-30, and M-40 Zones may be waived or modified when and as prescribed in Chapter 17.142.

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 M-20, M-30, and M-40 Zones, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.72.070 Other zoning provisions.

A. Performance Standards.

1. In the M-20 Zone, all Commercial and Industrial Activities shall be subject to the applicable provisions of the performance standards in Chapter 17.120.
2. In the M-30 Zone, all Commercial and Industrial Activities which are located within four hundred (400) feet from any boundary of a Residential Zone shall be subject to the applicable provisions of the performance standards in Chapter 17.120.

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

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

D. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.103, 17.104, 17.106, and 17.108 shall apply in the M-20, M-30, and M-40 Zones.

E. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the M-20, M-30, and M-40 Zones.

F. Landscaping and Screening Standards. The regulations set forth in Chapter 17.124 shall apply in the M-20, M-30, and M-40 Zones.

G. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

FOOTNOTE(S):

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Editor's note— Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed and reenacted Chapter 17.72 in its entirety to read as herein set out. Formerly, Chapter 17.72, §§ 17.72.010—

17.72.140, pertained to M-40 heavy industrial zone regulations and derived from the prior planning code, §§ 5800, 5802—5804, 5806, 5808, 5809, 5813, 5814, 5819, 5820, 5822, 5824; Ord. No. 11807, § 4, adopted 1995; Ord. No. 11854, §§ 13, 14, adopted 1996; Ord. No. 11889, §§ 2, 3, adopted 1996; Ord. No. 11904, §§ 5.67, 5.72—5.74, 5.65, adopted 1996; Ord. No. 11956, §§ 7, 8, adopted 1996; Ord. No. 12021, § 10, adopted 1997; Ord. No. 12072, §§ 10, 11, adopted 1998; Ord. No. 12147, § 3, adopted 1999; Ord. No. 12234, §§ 2, 3, adopted 2000; Ord. No. 12425, § 2, adopted 2002; Ord. No. 12450, § 17, adopted 2002; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12884, § 2, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010; Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010, and Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011. (Back)

Chapter 17.73 CIX, IG AND IO INDUSTRIAL ZONES REGULATIONS

Sections:

17.73.010 Title, purpose, and applicability.

17.73.015 Required design review process.

17.73.020 Permitted and conditionally permitted activities and facilities.

17.73.030 Property Development Standards.

17.73.035 Special regulations for Recycling and Waste-Related Industrial Activities—Primary Recycling Collection Centers in the CIX, IG, and IO Industrial Zones.

17.73.040 Special regulations for Work/Live units in the CIX, IG, and IO Industrial Zones.

17.73.050 Parking and loading dock restrictions.

17.73.060 Referral to other applicable regulations.

17.73.070 Other zoning provisions.

17.73.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the CIX, IG, and IO Industrial Zones Regulations. This Chapter establishes regulations for the (CIX-1A) West Oakland Plan Area Commercial Industrial Mix-1A, (CIX-1B) West Oakland Plan Area Commercial Industrial Mix-1B, (CIX-1C) West Oakland Plan Area Commercial Industrial Mix-1C, (CIX-1D) West Oakland Plan Area Commercial Industrial Mix-1D, (CIX-1) Commercial Industrial Mix-1, (CIX-2) Commercial Industrial Mix-2, (IG) General Industrial, and (IO) Industrial Office Zones.

The intent of the CIX-1A, CIX-1B, CIX-1C, and CIX-1D Industrial Zones is to implement the West Oakland Specific Plan. These and the other CIX, IG, and IO Industrial Zones are intended to create, preserve, and enhance areas for industrial uses, including manufacturing, scientific and product-related research and development, construction, transportation, warehousing/storage/distribution, recycling/waste-related activities, clean technology, and similar uses. The primary purposes of these areas are to support Oakland's economic base and to provide employment opportunities. The specific purposes of the CIX, IG, and IO Industrial Zones are to:

1. Provide a diversified economic base and a wide range of employment opportunities;
2. Maximize Oakland's regional role as a transportation, distribution, and communications hub;
3. Support Port operations and expansion by providing land for Port services such as trucking, warehousing, and distribution;
4. Preserve areas with good freeway, rail, seaport, and/or airport access for business and industrial uses;
5. Prohibit residential uses and limit commercial uses in General Industrial (IG) areas so that a maximum amount of the City's land base is preserved for industrial uses, and so that industrial uses may operate without impacting those activities;

6. Locate high impact industrial uses away from residential areas; and
7. Allow heavy-impact or large-scale commercial retail uses on sites with direct access to the regional transportation system.

A. **Description of Zones.** This Chapter establishes land use regulations for the following zones:

1. **CIX-1 Commercial Industrial Mix - 1 Zone.** The CIX-1 Zone is intended to create, preserve, and enhance industrial areas that are appropriate for a wide variety of businesses and related commercial and industrial establishments. This zone is intended to accommodate existing older industries and provide flexibility in order to anticipate new technologies. Large-scale commercial and retail uses will be limited to sites with direct access to the regional transportation system.
2. **CIX-1A West Oakland Plan Area Commercial Industrial Mix - 1A Zone (Business Enhancement).** The CIX-1A Zone intended to create, preserve, and enhance industrial areas in the West Oakland Specific Plan Area that are appropriate for incubator space for specific industry groups, adaptable space for artisans and craftspeople, and flexible small spaces for start-up businesses.
3. **CIX-1B West Oakland Plan Area Commercial Industrial Mix - 1B Zone (Low Intensity Business).** The CIX-1B Zone is intended to support industrial areas in the West Oakland Specific Plan Area that are appropriate for a broad range of new custom and light manufacturing, light industrial, warehouse, research and development, and service commercial uses.
4. **CIX-1C West Oakland Plan Area Commercial Industrial Mix - 1C Zone (High Intensity Business).** The CIX-1C Zone is intended to support industrial areas in the West Oakland Specific Plan Area that are appropriate for a broad range of higher intensity commercial, retail, office, and advanced manufacturing-type users. This zone is applied to areas with strong locational advantages that make possible the attraction of high intensity commercial and light industrial land uses and development types.
5. **CIX-1D West Oakland Plan Area Commercial Industrial Mix - 1D Zone (Retail Commercial Mix).** The CIX-1D Zone is intended to create, preserve, and enhance industrial areas in the West Oakland Specific Plan Area that are appropriate for a broad range of large-scale retail and commercial uses. This district is applied to areas with a prominent street location.
6. **CIX-2 Commercial Industrial Mix - 2 Zone.** The CIX-2 Zone is intended to create, preserve, and enhance industrial areas that are appropriate for a wide variety of commercial and industrial establishments. Uses with greater off-site impacts may be permitted provided they meet specific performance standards and are buffered from residential areas.
7. **IG General Industrial Zone.** The IG Zone is intended to create, preserve and enhance areas of the City that are appropriate for a wide variety of businesses and related commercial and industrial establishments that may have the potential to generate off-site impacts such as noise, light/glare, odor, and traffic. This zone allows heavy industrial and manufacturing uses, transportation facilities, warehousing and distribution, and similar and related supporting uses. Uses that may inhibit such uses, or the expansion thereof, are prohibited. This district is applied to areas with good freeway, rail, seaport, and/or airport access.

8. **IO Industrial Office Zone.** The IO Zone is intended to create and support areas of the City that are appropriate for a wide variety of businesses and related commercial and industrial establishments in a campus-style setting. Development and performance standards in this district are more restrictive and accommodate large-parcel development in an attractive, well-landscaped setting. Future development shall reflect large-scale office, research and development, light industrial, wholesaling and distribution, and similar and related supporting uses.

B. **Description of Combining Zone.** This Chapter establishes land use regulations for the following combining zone:

1. **T Transport and Warehousing Combining Zone.** The intent of the T Combining Zone is to create and support areas of the city with the CIX-1A, CIX-1B, CIX-1C, or CIX-1D Industrial Zone designation that are appropriate for a wide variety of transportation facilities, warehousing and distribution, and similar and related supporting uses. The T Combining Zone is applied to areas with good freeway, rail, and/or seaport access. When a primary zone is combined with the T Combining Zone, the T Combining Zone permitted uses supersede those of the primary zone.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2 (part), 2008)

17.73.015 Required design review process.

A. In the CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones: Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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. In the CIX-1, CIX-2, IG, and IO Zones: Except for projects that are exempt from design review as set forth in Section 17.136.025, no Residential Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

C. No facility located within one hundred fifty (150) feet of any Residential Zone boundary and accommodating the following activities shall be constructed, established, or expanded in size unless plans for the proposal have been approved pursuant to the Regular Design Review procedure in Chapter 17.136.

1. Automobile and Other Light Vehicle Gas Station and Servicing Activity.
2. Automobile and Other Light Vehicle Repair and Cleaning Activity.
3. Freight/Truck Terminal.
4. Truck Yard.
5. Truck Weigh Stations.
6. Truck and Other Heavy Vehicle Sales, Rental, and Leasing.

7. Truck and Other Heavy Vehicle Service, Repair, and Refueling.

D. Establishment of a Work/Live unit shall only be permitted upon determination that the proposal conforms to the Regular design review criteria set forth in the Regular Design Review procedure in Chapter 17.136 and to all of the additional criteria set forth in Subsection 17.73.040.D.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.73.020 Permitted and conditionally permitted activities and facilities.

The following table lists the permitted, conditionally permitted, and prohibited activities and facilities in the CIX, IG, and IO Zones. The descriptions of these uses are contained in Chapter 17.10.

"P" designates permitted activities and facilities in the corresponding zone.

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

"L" designates activities and facilities subject to certain limitations listed at the bottom of the Table.

"—" designates activities and facilities that are prohibited in the corresponding zone.

Table 17.73.020: Permitted and Conditionally Permitted Activities and Facilities

Activity Types	Zones									Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	T*	
Residential Activities										
Emergency Shelter	—	—	—	—	P(L1)	P(L1)	—	—	P(L1)	
All Other Residential Activities	All other Residential Activities prohibited in each zone									
Civic Activities										
Essential Service	P	P	P	P	P	P	P(L21)	P(L21)	P(L21)	
Limited Child-Care	C	C	C	C	—	—	—	—		
Community Assembly	P	P	P	P	P	C	—	C		
Recreational Assembly	P	P	P	P	P	C	—	C		

Activity Types	Zones									Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	T*	
Community Education	C	C	C	C	P	C	—	C		
Nonassembly Cultural	P	P	P	P	P	C	—	C		
Administrative	P	P	P	P	P	C	—	C		
Health Care	C	C	C	C	P	—	—	—	P	
Special Health Care	C	—	—	—	C	C	—	—		
Utility and Vehicular	C	C	P	C	P	C	C	C	P	
Extensive Impact	C	C	C	C	C	C	C	C		
Commercial Activities										
General Food Sales	P	P	P	P	P	P(L17)	C(L2)	P(L2)		
Full Service Restaurant	P	P	P	P	P	P(L17)	C(L2)	P(L2)		
Limited Service Restaurant and Cafe	P	P	P	P	P	P(L17)	C(L2)	P(L2)		
Fast Food Restaurant	C	C	C	C	C	C	—	C	C	See Section 17.103.030
Convenience Market	C	C	C	C	C	C	—	C	C	
Alcoholic Beverage Sales	C	C	C	C	P(L3)	C	—	—		See Sections 17.103.030 and 17.114.030

Activity Types	Zones									Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	T*	
Mechanical or Electronic Games	P(L4)	P(L4)	P(L4)	C	P(L4)	—	—	—		
Medical Service	P	P	P	P	P	C	—	C		
General Retail Sales	P	P	P	P	P	P(L17)	—	P(L17)		
Large-Scale Combined Retail and Grocery Sales	—	—	C	C	—	—	—	—		
Consumer Service	P(L20)	P(L20)	P(L20)	P(L20)	P(L20)	P(L20)	—	C(L20)		
Consultative and Financial Service	P	P	P	P	P	C	—	—		
Check Cashier and Check Cashing	—	—	—	—	—	—	—	—		
Consumer Cleaning and Repair Service	P	P	P	P	P	C	—	—		
Consumer Dry Cleaning Plant	C	C	C	C	P	C	—	—		
Group Assembly	P(L8)	P(L8)	P(L8)	P(L8)	P(L8)	P(L9)	P(L9)	C		
Personal Instruction and Improvement Services	P(L8)	P(L8)	P(L8)	P(L8)	P(L8)	P(L9)	P(L9)	C		
Administrative	P	P	P	P	P	P	L9	P		

Activity Types	Zones									Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	T*	
Business, Communication, and Media Service	P	P	P	P	P	P	P	P		
Broadcasting and Recording Service	P	P	P	P	P	P	P	P		
Research Service	P	P	P	P	P	P	C	P		
General Wholesale Sales	P	P	P	P	P	P	P	P		
Transient Habitation	C	C	C	C	—	—	—	—		
Building Material Sales	P(L19)	P(L19)	P(L19)	P(L19)	P(L4)	P(L4)	—	—	P(L4)	
Automobile and Other Light Vehicle Sales and Rental	C	C	P	P	P	C	—	C	P	
Automobile and Other Light Vehicle Gas Station and Servicing	C	C	C	P(L7)	P	P	P	—	P(L4)	
Automotive and Other Light Vehicle Repair and Cleaning	P(L7)	P(L7)	P(L7)	P(L7)	P(L4)	P(L4)	P	—	P(L4)	
Taxi and Light Fleet-Based Services	C	C	C	C	P(L4)	P(L4)	P	—	P	
Automotive Fee Parking	C	C	C	C	P(L4)	P	P	P		
Animal Care	P(L5)	P(L5)	P(L5)	C	P(L5)	C	C	—		

Activity Types	Zones									Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	T*	
Animal Boarding	P(L5)	P(L5)	P(L5)	C	P(L5)	C	C	—		
Undertaking Service	C	C	C	—	P	C	C	—		
Industrial Activities										
Custom Manufacturing	P	P	P	P	P	P	P	P		
Light Manufacturing	P	P	P	P	P	P	P	P		
General Manufacturing	P(L4)	P(L4)	P(L4)	—	P(L4)	P(L4)	P	—	P(L4)	
Heavy/High Impact Manufacturing	—	—	—	—	—	—	C	—		
Research and Development	P	P	P	P	P	P	P	P		
Construction Operations	P(L19)	P(L19)	P(L19)	C	P(L4)	P(L4)	P(L4)	C	P(L4)	
Warehousing, Storage and Distribution-Related:										
A. General Warehousing, Storage and Distribution	P(L18)	P(L18)	P(L18)	C	P	P	P	P	P	
B. General Outdoor Storage	C	C	C	C	C	P(L4)	P	P		
C. Self- or Mini-Storage	—	—	—	—	C	C	—	C	C	
D. Container Storage	—	—	—	—	—	P(L4)	P	—		
E. Automotive Salvage and Junk Yards	—	—	—	—	—	—	P(L4)	—		

Activity Types	Zones									Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	T*	
Regional Freight Transportation-Related:										
A. Seaport	—	—	—	—	—	—	P	C		
B. Rail Yard	—	—	—	—	—	C	P	—		
Trucking and Truck-Related:										
A. Freight/Truck Terminal	—	—	—	—	P(L6)	P(L4)	P	—	P	
B. Truck Yard	—	—	—	—	P(L6)	C	P	C	P	
C. Truck Weigh Stations	—	—	—	—	—	P	P	—		
D. Truck and Other Heavy Vehicle Sales, Rental and Leasing	—	—	—	—	P(L7)	P	P	P	P	
E. Truck and Other Heavy Vehicle Service, Repair, and Refueling	—	—	—	—	P(L6)	P	P	—	P	
Recycling and Waste-Related:										
A. Satellite Recycling Collection Centers	C	C	C	C	C	C	C	C		
B. Primary Recycling Collection Centers	—	—	—	—	P(L11)	P(L11)	P(L12)	—	—	See Section 17.73.035
Hazardous Materials Production, Storage & and Waste Management-Related:										
A. Small Scale Transfer and Storage	—	—	—	—	—	C	C	—		L12 - See also Health

Activity Types	Zones									Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	T*	
B. Industrial Transfer/Storage	—	—	—	—	—	—	C	—		and Safety Protection Zone (S-19)
C. Residuals Repositories	—	—	—	—	—	—	C	—		
D. Oil and Gas Storage	—	—	—	—	—	—	P(L3)	—		
Agricultural and Extractive Activities										
Plant Nursery	P	P	P	C	P	P	P	—		
Limited Agriculture	P(L14)	P(L14)	P(L14)	P(L14)	P(L14)	P(L14)	C(L15)	C(L15)	C(L15)	
Extensive Agriculture	C(L16)	C(L16)	C(L16)	C(L16)	C(L16)	C(L16)	C(L16)	C(L16)		
Mining and Quarrying Extractive	—	—	—	—	—	—	C	—		See Chapter 17.155
Accessory off-street parking serving prohibited activities	C	C	C	C	P	P	P	P	P	17.116.075
Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof	C	C	C	C	C	C	C	C		17.102.110

***** If a CIX-1A, CIX-1B, CIX-1C or CIX-1D base Zone also has the T Combining Zone, the T regulations shall supersede the base zone. Wherever the T regulations are silent, the base zone regulations shall supersede.

Facility Types	Zones								Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	
Residential Facilities	All Residential Facilities prohibited in each Zone, except those serving a permitted Emergency Shelter Activity as indicated in Limitation L1 below.								
Nonresidential Facilities									
Enclosed Nonresidential	P	P	P	P	P	P	P	P	
Open Nonresidential	P	P	P	P	P	P	P(L21)	P(L21)	
Sidewalk Cafe	P	C	C	P	C	C	—	—	See Section 17.103.090
Drive-In Nonresidential	—	—	—	—	—	—	—	—	
Drive-Through Nonresidential	C	C	C	C	C	C	C	C	See Section 17.103.100
Telecommunications Facilities									
Micro Telecommunications	P	P	P	P	P	P	P	P	See Chapter 17.128
Mini Telecommunications	P	P	P	P	P	P	P	P	
Macro Telecommunications	C	C	C	C	C	C	P	P	
Monopole Telecommunications	C	C	C	C	C	C	P	P	
Tower Telecommunications	—	—	—	—	—	—	P	P	
Sign Facilities									
Residential Signs	—	—	—	—	—	—	—	—	See Chapter 17.104
Special Signs	P	P	P	P	P	P	P	P	
Development Signs	P	P	P	P	P	P	—	—	
Realty Signs	P	P	P	P	P	P	P	P	
Civic Signs	P	P	P	P	P	P	P	P	

Business Signs	P	P	P	P	P	P	P	P	
Advertising Signs	—	—	—	—	—	—	—	—	

Limitations:

L1. Emergency Shelters are permitted by-right within those portions of the 3rd Street corridor, East 12th Street corridor and Coliseum Way area described in Section 17.103.015(A)(5)(6)(8) respectively and subject to the development standards in Section 17.103.015(B).

L2. Limited to location on a ground floor in the CIX-2, IG and IO Zones. Over five thousand (5,000) sf. floor area requires a conditional use permit in the CIX-2, IG, and IO Zones.

L3. Prohibited within three hundred (300) feet of a Residential Zone and requires a conditional use permit elsewhere throughout the zone. Conditional use permit is required in the CIX-2 Zone.

L4. A conditional use permit is required if within three hundred (300) feet of a Residential Zone. Permitted if beyond three hundred (300) feet of a Residential Zone.

L5. A conditional use permit is required if the use involves any of the following: a) outdoor yard activities; or b) ancillary overnight boarding.

L6. Prohibited within six hundred (600) feet of a Residential Zone. A conditional use permit is required elsewhere throughout the zone.

L7. A conditional use permit is required: a) if within three hundred (300) feet of a Residential Zone, and b) if located anywhere in the district when outdoor repair and service activity exceeds fifty percent (50%) of site area.

L8. A conditional use permit is required for entertainment uses. Also, no new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L9. A conditional use permit is required for entertainment, educational and athletic uses (see Chapter 17.134 for the CUP procedure). Also, no new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L10. Administrative activities accessory to an existing Industrial Activity are limited to twenty percent (20%) of floor area in the IG Zone.

L11. Prohibited within three hundred (300) feet of a Residential Zone; a conditional use permit containing requirements no less stringent than the performance standards set out in Section 17.73.035 is required if beyond three hundred (300) feet of a Residential Zone boundary.

L12. Prohibited within three hundred (300) feet of a Residential Zone, permitted outright beyond three hundred (300) feet with a standard set of performance standards that would apply to existing, new or expanded uses, as detailed in Section 17.73.035.

L13. A conditional use permit is required for Electroplating Activities.

L14. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure).

L15. Limited Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;

2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and

3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

L16. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

L17. Permitted outright if located within one thousand (1,000) feet of Highway 880, International Boulevard, Hegenberger Road, or 66th Avenue; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure).

L18. The total floor area devoted to these activities shall only exceed twenty-five thousand (25,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).

L19. A conditional use permit is required if the use involves any outdoor activities within three hundred (300) feet of a Residential Zone. Outdoor activities are permitted if the use is located greater than three hundred (300) feet from a Residential Zone.

L20. See Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to Laundromats.

L21. Community Gardens and Botanical Gardens are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. No. 12923, § 2(Exh. A), 3-17-2009; Ord. 12875 § 2 (part), 2008)

17.73.030 Property Development Standards.

Table 17.73.030 contains the property development standards for all zones within this Chapter.

Table 17.73.030: Property Development Standards

Development Standards	Zones								Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	
Minimum Lot Frontage	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	100 ft.	1
Minimum Lot Width Mean	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	100 ft.	1
Minimum Lot Area (square feet)	5,000 sf.	5,000 sf.	5,000 sf.	5,000 sf.	5,000 sf.	10,000 sf.	10,000 sf.	25,000 sf.	1
Floor-Area Ratio (FAR)									
FAR - Greater than 300 feet from a Residential Zone boundary	2.0	2.0	2.0/3.0	2.0/3.0	4.0	4.0	2.0	4.0	2
FAR - Within 300 feet of a Residential Zone boundary	2.0	2.0	2.0/3.0	2.0/3.0	2.0/4.0	2.0/4.0	1.0/2.0	2.0/4.0	2
Maximum Height	85 ft.	85 ft.	85 ft.	85 ft.	None	55 ft.	None	55 ft.	3, 4
Minimum Front Yard Setback	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	20 ft.	5
Minimum Rear Yard Setback	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	5
Minimum Interior Side Yard setback	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	5

Development Standards	Zones								Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	
Minimum Street Side Yard Setback of a Corner Lot	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	20 ft.	5
Site Landscaping (% of entire lot area)	5%	5%	5%	5%	5%	5%	5%	15%	6, 7
Parking Lot Landscaping (% of parking lot area)	10%	10%	10%	10%	10%	10%	10%	10%	8
Street Trees	Required	Required	Required	Required	Required	Required	Required	Required	9, 10
Site and Driveway Access - Minimum Distance from any Residential or Open Space Zone boundary	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	11
Driveway Width Maximum	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	12
Pedestrian Walkway	Required	Required	Required	Required	Required	Required	Required	Required	13
Minimum Fence Height in Yards adjacent to Residential or Open Space Zones	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	14

Development Standards	Zones								Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	
Maximum Fence Height in Yards adjacent to Residential or Open Space Zones	12 ft.	12 ft.	12 ft.	12 ft.	15 ft.	15 ft.	15 ft.	15 ft.	14, 15

Additional Regulations Noted in Table 17.73.030

1. See Sections 17.106.010 and 17.106.020 for exceptions to street frontage, lot width and lot area regulations.

2. A conditional use permit to exceed the maximum Floor Area Ratio (FAR) as shown in Table 17.73.030 may be granted for the CIX-1C, CIX-1D, CIX-1, CIX-2, IG, and IO Zones upon determination that the proposal conforms to the conditional use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, and to all of the following additional criteria:

a. If in the CIX-1, CIX-2, IG, or IO Zones, the additional intensity will not exceed the maximum Floor Area Ratio (FAR) for sites greater than three hundred (300) feet from a Residential Zone boundary; or if in the CIX-1C or CIX-1D Zones, will not exceed a Floor Area Ratio (FAR) of 3.0. Any additional intensity in the CIX, IG or IO Zones will not subject residentially zoned areas within three hundred (300) feet to significant adverse impacts related to: truck traffic; nighttime operations; noise; vehicular traffic; hazardous materials exposure and risk; air emissions; blockage of sunlight to private open space areas; or other such environmental impacts;

b. If in the CIX-1, CIX-2, IG, or IO Zones, the site is located on a major arterial, freeway, rail line or other location that has adequate capacity to handle the intensity and type of traffic volume. If in the CIX-1C or CIX-1D Zones, the site is located within five hundred (500) feet of Mandela Parkway, or in or within five hundred (500) feet of the T overlay Zone;

c. If adjacent to a Residential or Open Space Zone boundary, the proposed development has a step back of one (1) foot to every one (1) foot of height, beginning with a maximum height of thirty (30) feet at all required yard setbacks; and

d. All new development activities meet the Performance Standards in Chapter 17.120.

3. For additional regulations regarding height, see Section 17.108.030 (Allowed Projections above Height Limits), Chapter 17.128 (Telecommunications Regulations), Section 17.108.010 for lots lying along a boundary of certain Residential Zones, and Section 17.104.020 for maximum height of Signs.

4. The height of materials stored in any outdoor yards shall be no higher than eight (8) feet within the required rear or side yard setback along the property line. However, materials may be stacked up to the height of the wall, and may be stacked within the required yard area if a solid wall at least eight (8) feet in height and buffer planting is installed. The aisle width and material

composition of all stored material, and the ultimate height of all outdoor materials stored beyond the ten (10) foot yard requirement, shall be according to the Fire Code regulations. The wall design shall be approved by the Planning Director, or his or her designee. In addition, the following regulation shall apply in the West Oakland Specific Plan Area only:

a. Outdoor storage located within twenty-five (25) feet from any Residential or Open Space Zone shall be no higher than eight (8) feet, and shall be screened by a solid wall at least as tall as the height of the stored materials, with buffer planting installed along the exterior wall perimeter.

5. See Section 17.108.130 for minimum front, side, and rear yards in Commercial and Industrial Zones which may be across from, abut or be adjacent to a Residential Zone or alley. Accessory structures or other facilities allowed within the yards and setbacks are in Sections 17.108.130.

6. All projects which involve the construction of a new Nonresidential Facility, or the addition to an existing Nonresidential Facility of over one thousand (1,000) square feet, shall comply with the landscape requirements in this Chapter and in Chapter 17.124. Landscaping shall consist of pervious surface with lawn, ground cover, shrubs, permeable paving materials, and/or trees and which is irrigated and maintained. See Chapter 17.124 and Section 17.124.025 for other Landscaping and Screening Standards.

7. In the IO district, the minimum front yard setback area required shall, except for driveways, walkways, and allowable Signs, be developed as open landscaped areas with lawn, ground cover, shrubs, trees or decorative and permeable paving materials, subject to the standards for required landscaping and screening in Chapter 17.124.

8. Parking Lot Landscaping applies only to lots associated with new construction of more than ten thousand (10,000) square feet of floor area. Shade trees shall be provided at a ratio of one (1) tree for every ten (10) spaces through the parking lot. A minimum of ten percent (10%) of a surface parking lot shall be landscaped accompanied by an irrigation system that is permanent, below grade and activated by automatic timing controls which may be provided entirely in permeable surfacing in lieu of irrigated landscaping if approved through the Design Review process (see Chapter 17.136). Parking lots located adjacent to a public right-of-way shall include screening consisting of a minimum of five (5) foot deep planted area or a three (3) foot tall opaque, concrete, or masonry wall with a minimum three (3) foot deep planted area. Chain link, cyclone, and barbed wire fencing is prohibited in all cases.

9. For all projects requiring a building permit, street trees are required. In addition to the general landscaping requirements set forth above, a minimum of one (1) 15-gallon tree, or substantially equivalent landscaping consistent with City policy and as approved by the Director of City Planning, shall be provided for every twenty (20) feet of street frontage or portion thereof and, if a curbside planting strip exists, for every twenty-five (25) feet of street frontage. 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 (6½) feet, the trees to be provided shall include street trees to the satisfaction of the Tree Division.

10. The street tree requirement noted above shall apply to all projects which involve the construction of a new Nonresidential Facility, or the addition to an existing Nonresidential Facility of over one thousand (1,000) square feet (see Chapter 17.124 and Section 17.124.025 for other Landscaping and Screening Standards).

11. Applies to new development; or expansion of industrial or commercial buildings by more than twenty percent (20%) floor area; or b) addition or expansion of an existing building so that the building to land ratio exceeds thirty-five percent (35%), whichever is greater; and all new driveway projects. This requirement may be waived administratively if such distance requirement will impede direct access to a rail line.

12. Driveway shall not exceed thirty-five (35) feet in width without obtaining approval from the Engineering Department of Building Services through the Driveway Appeal Process.

13. A clearly defined and lighted walkway, at least four (4) feet wide, shall be provided between the main building entry and a public sidewalk for all new development. On-site walkways shall be separated from on-site automobile circulation and parking areas by landscaping, a change in paving material, or a change in elevation.

14. Applies to all property lines in Industrial Zones, except those fronting a public street, which directly abut a Residential or Open Space Zone. All buffering requirements apply to: a) new development; or expansion of an industrial or commercial building by more than twenty percent (20%) floor area, or b) addition or expansion of an existing building so that the building to land ratio exceeds thirty-five percent (35%), whichever is greater.

15. A reduced buffer requirement may be permitted if appropriate and approved by the Planning Director with the provision of a solid wall of at least eight (8) feet in height in combination with a reduced buffer width as well as fewer trees and shrubs at a standard appropriate for minimizing the incompatibility between uses. The wall design shall be approved by the Planning Director, or his or her designee.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2 (part), 2008)

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17.73.035 Special regulations for Recycling and Waste-Related Industrial Activities— Primary Recycling Collection Centers in the CIX, IG, and IO Industrial Zones.

A. Applicability. This Section applies to Recycling and Waste-Related Industrial Activities — Primary Collection Centers, that are located in the Commercial Industrial Mix (CIX), General Industrial (IG), or Industrial Office (IO) Zones. Conditional use permits issued for operations in CIX Zones must contain conditions no less stringent than the performance standards set out in this Section. Where there is any apparent conflict between these regulations and regulations contained elsewhere in Title 17 of the Oakland Municipal Code, and/or with conditions of approval, the more stringent shall govern.

B. Performance Standards. In addition to the performance standards set forth in Chapter 17.120, the following minimum performance standards shall be uniformly applied, as applicable, to all Primary Recycling Collection Centers.

1. Site Design and Layout. For new and expanded uses, submittal and approval of the following plans, and implementation of approved plans shall be required:

a. Site and floor plans, which shall include designated areas for separation and disposal of materials, as well as required fencing/walls, to the Planning and Zoning and Building Services Divisions;

b. Building plans to the Fire Services Division;

c. Fire safety/emergency plan to the Fire Services Division.

2. Signage. For existing, new or expanded uses: identification, directional and informational signs shall be provided on site in conformance with Chapter 17.104 General Limitation on Signs and with the small project design review procedure in Chapter 17.136. At a minimum, the following information shall be posted near the entrance(s) and/or perimeter of the facility:

   a. Business Identification, 24-hour contact information of facility operator;

   b. Hours of operation;

   c. Signage prohibiting the delivery or drop off of material to be recycled after-hours;

   d. Signage prohibiting illegal dumping, littering loitering or sleeping in proximity of the site's perimeter;

   e. A map of authorized truck routes to the facility posted at the office or scale house (and available to customers);

   f. A list of accepted and/or non-accepted materials for recycling.

3. Appearance and Design.

   a. Landscaping.

      i) For existing, new or expanded uses, all required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required irrigation systems shall be permanently maintained in good condition, and, whenever necessary, repaired or replaced.

      ii) For new or expanded uses, submittal and approval of a landscape and irrigation maintenance plan and/or street tree plan, and implementation of approved plan for new and expanded uses, as required by the Planning Director or his/her designee;

   b. Screening. For existing, new and expanded uses, screening by a solid fences and/or walls shall be required around the entire site;

   c. Lighting.

      i) For new or expanded uses, submittal and approval of lighting plans, and implementation of approved plans, to the Planning and Zoning Division and the Electrical Services Division of the Public Works Agency shall be required. The proposed lighting fixtures shall be adequately shielded to a point below the light bulb and reflector so as to prevent unnecessary glare onto adjacent properties or public streets.

      ii) For existing uses, lighting shall comply with the performance standards of Section 17.120.100 of the Oakland Planning Code relating to glare. Lighting shall be so operated as to not adversely affect nearby properties or public streets.

4. Noise, Vibration and Other Applicable Health and Safety Regulations. For existing, new or expanded uses:

   a. Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Chapter 17.120 of the Oakland Planning Code and Chapter 8.18 of the Oakland Municipal Code. If noise levels

exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning and Building Services Divisions;

b. Vibration levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Chapter 17.120 of the Oakland Planning Code. If vibration levels exceed these standards, the activity causing the vibration shall be abated until appropriate vibration reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services;

c. The project operator/applicant shall comply with State and other regional bodies and/or applicable regulations including, but not limited to, the federal Clean Water Act and Occupational Safety and Health Administration (OSHA), the California Penal Code Section 496.(a), the Environmental Protection Agency (EPA), the Bay Area Air Quality Management District (BAAQMD) and Best Management Practices (BMP) for stormwater.

5. Litter, Debris, Graffiti and Cleanliness. For existing, new or expanded uses:

a. The site shall be maintained in a clean and orderly condition, free of vectors, and free of standing water and any odiferous waste;

b. The public right-of-way shall not be used for storage or processing of materials;

c. Graffiti shall be removed within seventy-two (72) hours of application;

d. A cleanliness/litter management and control plan shall be developed, implemented and maintained, such that it is ready for inspection. The plan shall include provisions for the disposal of recycling-related litter and debris in the public right-of-way within the area comprised of all streets adjacent to the premises, and the one-block extension of those streets to the north and south, and east and west, respectively (See Figure 17.73.01). This would not include material illegally dumped that is not related to the recycling operation, including but not limited to, hazardous material, containers of paint or unidentified liquids, tree trimmings, residential, commercial and/or industrial waste or dumping of materials not accepted by the Primary Recycling Collection Center. In addition, the Primary Recycling Collection Center shall produce a notice to distribute to customers that states that all illegal dumping shall be reported to City authorities.

e. A site/immediate neighborhood shopping cart management plan shall be developed, implemented and maintained, such that it is ready for inspection. If the Primary Recycling Collection Center accepts materials from the public brought by means of a shopping cart, it shall be responsible for the retrieval of all shopping carts within the area comprised of all streets adjacent to the premises, and the one-block extension of those streets to the north and south, and east and west, respectively (See Figure 17.73.01). Additionally, a Primary Recycling Collection Center shall post signage that includes contact information to report abandoned shopping carts in the vicinity of the facility; if called or notified by a member of the public about abandoned shopping carts located within a two-block radius of the premises, a Primary Recycling Collection Center shall retrieve said carts. A two-block radius of the premises shall comprise all street sides of the twenty-five (25) square block area that includes the block on which the premises is located (as the center block of the twenty-five (25) square block area) See Figure 17.73.01).

f. A loitering deterrence plan shall be developed, implemented and maintained, such that is ready for inspection;

6. Circulation. For new or expanded uses submittal and approval of the following plans, and implementation of approved plans are required:

   a. A circulation plan that shows ingress and egress, parking both on-site and off-street, as well as includes provisions for any needed staff to monitor on-site traffic operations, submitted to the Transportation Services Division;

   b. A plan showing rail loading and unloading within site shall be required (as applicable) submitted to the Transportation Services Division.

7. Equipment and Facilities. For existing, new or expanded uses:

   a. There shall be no exterior pay telephones located at the site;

   b. All equipment shall be maintained and kept in good working order;

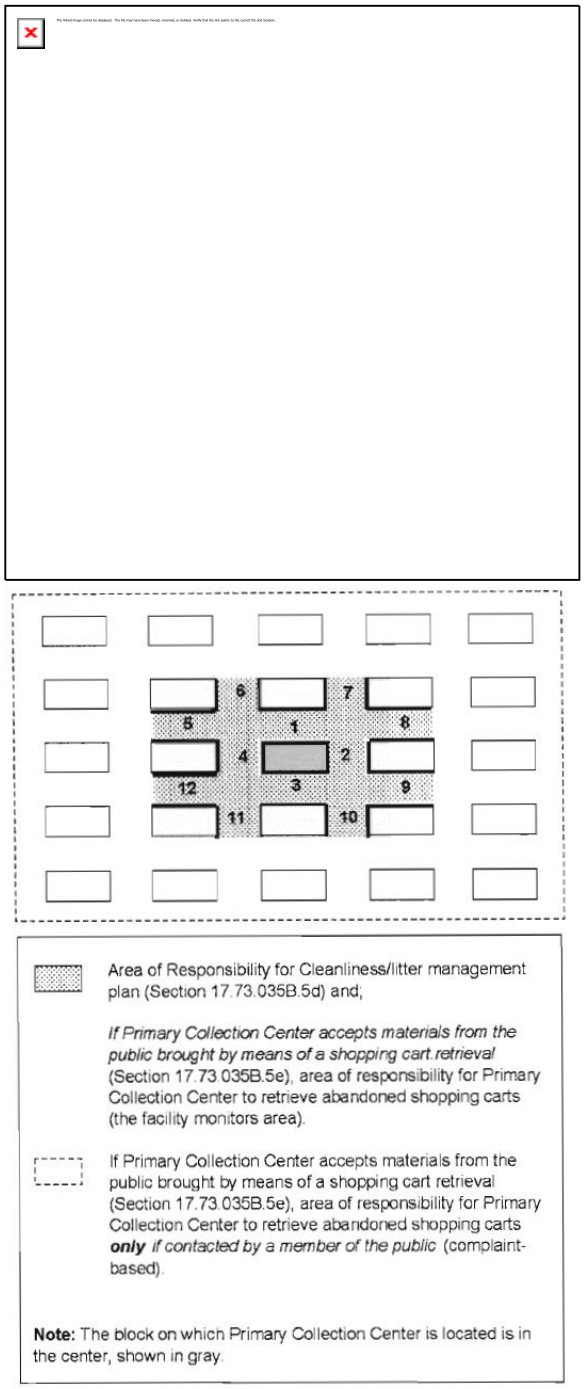
   c. After business hours, all facility-owned vehicles shall be stored within the facility or at an appropriate alternative off-street location.

8. Operations. All existing, new or expanded uses:

   a. Shall have a representative attend Neighborhood Crime Prevention Council meetings— a minimum of two (2) meetings per year or more frequently if items pertaining to their facility are on the agenda— for their community policing beat with the sole purpose of addressing and responding to community complaints. For the purposes of this provision said representative will mean a site or company manager with sufficient authority to address the concerns of neighbors;

   b. Shall maintain a 24-hour "hotline" where neighbors can log complaints regarding nuisance activity associated with or emanating from the recycling facility. Complaints logs shall be maintained and made available to the City for inspection/copying upon reasonable notice;

Figure 17.73.01: Illustration of Extent of Area Primary Recycling Collection Centers are responsible for Litter/Garbage/Debris Removal and Shopping Cart Retrieval



c. Shall provide staff and training for traffic operations needed on-site, as required by the Transportation Services Division as part of any circulation plan;

d. Shall develop, implement and maintain a plan for the disposal and containment of non-recoverable materials that is ready for inspection; submittal and approval of such a plan prior to operation shall be required for new or expanded uses;

e. Shall keep all entrance gates closed and locked when the Primary Recycling Collection facility is not open to the public;

f. Shall not burn insulation from copper wire as a means to increase the material's value or for any other purpose.

C. Relief from Performance Standards. Any person who owns or operates, or who has applied to construct, expand, modify or establish an activity or facility that involves Primary Recycling Collection Centers which would be affected by the performance standards required, and who contends that the performance standards as applied to him or her would be unlawful under Federal, State, or local law or regulation, may submit a written application to the Planning Director requesting relief from the performance standards within ten (10) days of being initially notified of the performance standards. For purposes of this Section, notice to a predecessor in interest shall constitute such initial notice to subsequent owners/operators. The written request for relief from these performance standards must: (a) identify the name and address of the applicant and business; (b) the affected application number; (c) specifically state how the performance standards as applied to him or her would be unlawful under Federal, State, or local law or regulation; and (d) include all appropriate legal and factual support for the request for relief. Within thirty (30) days of receipt of the completed request for relief, the Planning Director, or his/her designee, shall mail to the applicant a written determination. The applicant may appeal such determination pursuant to the provisions in Oakland Planning Code Chapter 17.132.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12923, § 2(Exh. A), 3-17-2009)

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, changed the title of Section 17.73.035 from "Special regulations for primary collection centers in the industrial zones" to "Special regulations for Recycling and Waste-Related Industrial Activities—Primary Recycling Collection Centers in the CIX, IG, and IO industrial zones." The historical notation has been preserved for reference purposes.

17.73.040 Special regulations for Work/Live units in the CIX, IG, and IO Industrial Zones.

A. Applicability. A Work/Live unit in the CIX, IG, and IO Industrial Zones must meet all applicable regulations contained in this Section. The CIX, IG, and IO Zones regulations contained in this Section 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.

B. Definition. The following definition applies to this Chapter only: A "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. A Work/Live unit accommodates a primary Nonresidential Activity with an accessory residential component.

C. Conditional use permit required.

1. Establishment of a Work/Live unit is only permitted upon determination that the proposal conforms to the conditional use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to one or both of the following additional use permit criteria:

a. The project is in the CIX Zones, and involves new construction or conversion of a building: (1) within three hundred (300) feet of a Residential Zone, or (2) on an irregular shaped parcel that is adjacent to Mandela Parkway and in existence prior to the effective date of this amended Code section.

b. The project is in the CIX, IG, or IO Zones, and involves conversion of an existing building originally designed for Commercial or Industrial Activities and there are existing artist and/or artisan residents who meet the requirements of Zoning Code Bulletin regarding "Live/Work" (issued August 29, 2001 and amended August 23, 2004).

D. **Regular design review required.** Establishment of a Work/Live unit shall only be permitted 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 Work/Live units in the Industrial Zones 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 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 roll up doors at the street or storefront style windows that allow interior space to be visible from 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;

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

4. 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; and

5. 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.

E. Activity, parking, loading, open space, and unit size standards for Work/Live units. The following table contains the activities allowed in a Work/Live unit; the minimum size of an industrial Work/Live unit; and the parking, loading and open space required for each Work/Live unit:

Table 17.73.040.C Activity, parking, loading, open space, and unit size standards for Work/Live units.

Standard	Requirement	Note
Activities allowed in a Work/Live unit	Same permitted and conditionally permitted activities as described in Section 17.73.020 for the applicable base zone.	

Standard	Requirement		Note
Required parking	One (1) parking space per unit, plus one (1) additional unassigned visitor or employee parking space per five (5) Work/Live units		1, 3
Required loading	**Square feet of facility**	**Requirement**	
	Less than 10,000 square feet	No berth required	
	10,000—69,999 square feet	One (1) berth	
	70,000—130,000 square feet	Two (2) berths	
	Each additional 200,000 square feet	One (1) additional berth	
Required usable open space	Seventy-five (75) square feet of usable open space per unit		
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. All required usable open space shall meet the usable open standards contained in Chapter 17.126, except that all usable open space Work/Live units may be provided above ground. Further, each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement.

3. Parking and open space standards apply to new construction. For conversion of existing buildings, maintaining existing parking and open space is required.

F. A Work/live unit shall consist of a maximum of one-third (1/3) residential floor area with the remaining floor area to be used for the primary Nonresidential Activity. All required plans for the creation of industrial 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. Work/Live space shall be considered Commercially/Industrially Oriented Joint Living and Working Quarters under the Building Code. Any building permit plans for the construction or establishment of Work/Live units shall: (1) clearly state that the proposal includes Commercial/Industrially Joint Living and Working Quarters and (2) label the units intended to be these units as Commercially/Industrially Joint Living and Working Quarters. This requirement is to assure the City applies building codes that allow Industrial Activities in Work/Live units in the Industrial Zones.

H. Each unit shall contain at least one (1) 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.

I. For any 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) recorded with the County of Alameda as a Notice of Limitation and in any other 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 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 (1) 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.

J. Each building with a 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 (9) by eleven (11) inches and lettering at least one-half (½) 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."

K. The development of Work/Live units in the CIX, IG, and IO Industrial Zones shall not be considered adding housing units to the City's rental supply, nor does it create "conversion rights" under the City's condominium conversion ordinance, O.M.C. Chapter 16.36, nor are the development standards for Work/Live units intended to be a circumvention of the requirements of the City's condominium conversion ordinance, O.M.C. Chapter 16.36.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12875 § 2 (part), 2008)

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, changed the title of Section 17.73.040 from "Special regulations for work/live units in the industrial zones" to "Special regulations for work/live units in the CIX, IG, and IO industrial zones." The historical notation has been preserved for reference purposes.

17.73.050 Parking and loading dock restrictions.

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

B. Parking for new development shall be located at the rear of the site or at the side of the building in the CIX and IO Zones except for drop-off areas, which may be at the entry, except where access to existing loading docks and/or rail lines is required. New truck loading docks shall not be located closer than fifty (50) feet from property line as measured from the subject dock to any property boundary if located within three hundred (300) feet of a Residential Zone, unless such a distance requirement will impede direct access to a rail line. Truck docks shall be located such that trucks do not encroach into the public right-of-way. All existing loading docks are not subject to this requirement.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2 (part), 2008)

17.73.060 Referral to other applicable regulations.

The following table contains referrals to other regulations that may apply:

Table 17.73.050: Referral to Other Regulations

Subject	Section
Required number, dimensions, and location of parking spaces; maneuvering aisle dimensions, and related regulations	17.116
Sign regulations	17.104.020 17.104.060
Buffering regulations, including the buffering of parking, loading, glare, and storage from other properties	17.110
Landscaping and screening, including street trees	17.124
Recycling space requirements	17.118
Nonconforming uses and facilities	17.114
Joint living and working quarters	17.102.190
Performance standards regarding the control of noise, odor, smoke, and other objectionable impacts	17.120
The demolition of living units and the conversion of a living unit to a Nonresidential Use	17.102.230
Accessory Uses	17.10.040
Fence and retaining wall standards, including location, height, and materials	
Expanding a use into adjacent zones	17.102.110
Application of zoning regulations to lots divided by zone boundaries	17.154.060
Landmarks	17.05
Regulations applying to tobacco-oriented activities	17.102.350
Microwave and satellite dishes over three (3) feet in diameter located in or near Residential Zones	17.102.240
Special regulations applying to Adult Entertainment Activities	17.102.160
Special regulations applying to massage service activities	17.102.170
Buffering regulations for lots with three (3) or more required parking space. This includes the screening of parking, loading, glare, and storage from Residential properties and Zones	17.110.030
Buffer Regulations for commercial and industrial uses next to Residential and Open Space Zones	17.110
Special regulations applying to Electroplating Activities	17.102.340

Subject	Section
S-19 Health and Safety Protection Overlay Zone	17.100A

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12875 § 2 (part), 2008)

17.73.070 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 CIX, IG, and IO Zones.

F. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the CIX, IG, and IO Zones.

(Ord. No. 13042, § 4(Exh. A), 10-19-2010)

Chapter 17.74 S-1 MEDICAL CENTER ZONE REGULATIONS

Sections:

17.74.010 Title, purpose, and applicability.

17.74.020 Required design review process.

17.74.030 Permitted activities.

17.74.040 Conditionally permitted activities.

17.74.050 Permitted facilities.

17.74.060 Conditionally permitted facilities.

17.74.070 Special regulations applying to certain Commercial Activities.

17.74.075 Special regulations applying to Extensive Agriculture.

17.74.080 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity.

17.74.090 Use permit criteria for Commercial Activities.

17.74.100 Limitations on Signs.

17.74.110 Minimum lot area, width, and frontage.

17.74.120 Maximum residential density.

17.74.130 Maximum Floor-Area Ratio.

17.74.140 Maximum height.

17.74.150 Minimum yards and courts.

17.74.160 Minimum usable open space.

17.74.170 Buffering.

17.74.180 Special regulations for Mini-Lot and Planned Unit Developments.

17.74.190 Other zoning provisions.

17.74.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the S-1 Medical Center Zone Regulations. The Medical Center (S-1) Zone is intended to create, preserve, and enhance areas devoted primarily to medical facilities and auxiliary uses, and is typically appropriate to compact areas around large hospitals. These regulations shall apply in the S-1 Zone.

(Prior planning code § 6100)

17.74.020 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12606 Att. A (part), 2004: Ord. 11904 § 5.63 (part), 1996: prior planning code § 6102)

17.74.030 Permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, are permitted:

A. Residential Activities:

Permanent

Residential Care occupying a One-Family Dwelling Residential Facility

Supportive Housing

Transitional Housing

Semi-Transient

Emergency Shelter (Emergency Shelters are permitted by-right within those portions of the Martin Luther King Jr. Way corridor and Webster Street area described in Section 17.103.015(A)(1)(3) respectively and subject to the development standards in Section 17.103.015(B); permitted upon the granting of a Conditional Use Permit elsewhere in the zone.)

B. Civic Activities:

Essential Service (Community Gardens are permitted outright if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. The cultivation of animals, animal products and/or livestock production, except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit - see Chapter 17.134 for the CUP procedure)

Limited Child-Care

Community Assembly

Recreational Assembly

Community Education

Nonassembly Cultural

Health Care

C. Commercial Activities:

Medical Service

D. Agricultural and Extractive Activities:

Limited Agriculture, permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure)

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 5 (part), 1999; Ord. 11904 § 5.75, 1996; prior planning code § 6103)

17.74.040 Conditionally permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Residential Activities:

Residential Care, except when occupying a One-Family Dwelling Residential Facility

Emergency Shelter

B. Civic Activities:

Administrative

Utility and Vehicular

Community Education

Special Health Care Civic Activities (see Section 17.103.020)

C. Commercial Activities:

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Fast Food Restaurant

Convenience Market

Alcoholic Beverage Sales

Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)

Consultative and Financial Service

Group Assembly

Personal Instruction and Improvement Services

Administrative

Business, Communication, and Media Service

Broadcasting and Recording Service

Research Service

Automotive Fee Parking

Animal Care

Animal Boarding

D. Agricultural and Extractive Activities:

Extensive Agriculture (see Section 17.74.075)

E. Off-street parking serving activities other than those listed above or in Section 17.74.030, subject to the conditions set forth in Section 17.116.075.

F. Activities that are listed neither as permitted nor conditionally permitted, but are permitted or conditionally permitted on nearby lots in an adjacent zone, subject to the conditions set forth in Section 17.102.110

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12450 § 13, 2002; Ord. 12138 § 5 (part), 1999; prior planning code § 6104)

17.74.050 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

A. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.103.080

Two-Family Dwelling

Multifamily Dwelling

Rooming House

B. Nonresidential Facilities:

Enclosed

Open, accommodating Civic Activities, Limited Agriculture, seasonal sales, or special events only

C. Signs:

Residential

Special

Development

Realty

Civic

Business

D. Telecommunications:

Micro Telecommunications, except when a Major Conditional Use Permit is required by Section 17.128.025

Mini Telecommunications, except when a Major Conditional Use Permit is required by Section 17.128.025

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13060, § 2(Exh. A), 3-1-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 11904 § 5.79, 1996; prior planning code § 6105)

17.74.060 Conditionally permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Nonresidential Facilities:

Open, accommodating activities other than Civic Activities, Limited Agriculture, seasonal sales, or special events

B. Telecommunications:

Macro Telecommunications

Monopole Telecommunications

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 11904 § 5.83, 1996; prior planning code § 6106)

17.74.070 Special regulations applying to certain Commercial Activities.

All conditionally permitted Commercial Activities other than Automotive Fee Parking shall, except for accessory off-street parking and loading and maintenance of accessory landscaping and screening, be conducted entirely within enclosed buildings which are primarily occupied by permitted activities. See also Section 17.103.030.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6108)

17.74.075 Special regulations applying to Extensive Agriculture.

Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

A. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

Editor's note—

Ord. No. 13060, § 2(Exh. A), adopted March 1, 2011, repealed the former Section 17.74.075 in its entirety, which pertained to restrictions on telecommunications facilities and derived from Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010.

17.74.080 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity.

See Section 17.102.230.

(Prior planning code § 6109)

17.74.090 Use permit criteria for Commercial Activities.

A conditional use permit for any conditionally permitted Commercial Activity may 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 both of the following additional use permit criteria:

A. That the proposed activity is intended primarily to serve the medical center area in which it is located or the patients, practitioners, or employees of the center;

B. That the proposed activity will not create or aggravate traffic congestion or interfere with the movement of traffic generated by permitted activities.

See also Section 17.103.030.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6111)

17.74.100 Limitations on Signs.

All Signs shall be subject to the applicable limitations set forth in Section 17.104.030.

(Prior planning code § 6113)

17.74.110 Minimum lot area, width, and frontage.

Every lot shall have a minimum lot area of four thousand (4,000) square feet and a minimum lot width mean of twenty-five (25) feet, except as a lesser area or width is allowed by

Section 17.106.010. Every lot shall have a minimum frontage of twenty-five (25) feet upon a street, except as this requirement is modified by Section 17.106.020.

(Prior planning code § 6114)

17.74.120 Maximum residential density.

The maximum density of Residential Facilities shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum density on lots containing both Residential and Nonresidential Facilities. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms. No Residential Facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270.B and a Secondary Unit.

A. Permitted Density. One regular dwelling unit is permitted for each three hundred (300) square feet of lot area, provided that one extra such unit is permitted if a remainder of two hundred (200) square feet or more is obtained after division of the lot area by three hundred (300) square feet. One efficiency dwelling unit is permitted for each two hundred (200) square feet of lot area, provided that one extra such unit is permitted if a remainder of one hundred fifty (150) square feet or more is obtained after division of the lot area by two hundred (200) square feet. One rooming unit is permitted for each one hundred fifty (150) square feet of lot area, provided that one extra such unit is permitted if a remainder of one hundred (100) square feet or more is obtained after division of the lot area by one hundred fifty (150) square feet. For a combination of different types of living units, the total required lot area shall be the sum of the above requirements for each. The number of living units permitted heretofore may be exceeded by ten percent (10%) on any corner lot, and may also be exceeded by ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot. A One-Family Dwelling or a One-Family Dwelling with Secondary Unit is permitted on any lot which qualifies under Section 17.106.010 as an existing buildable parcel and that contains no other dwelling units.

B. Conditionally Permitted Density. The number of living units permitted by Subsection A. of this Section may be increased by not to exceed fifty percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

    1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040;

    2. Upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

The number of living units may also be increased, as prescribed in Section 17.106.060, in certain special housing.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 6115)

17.74.130 Maximum Floor-Area Ratio.

The maximum Floor-Area Ratio of any facility shall be as follows, subject to the provisions of Section 17.106.030 with respect to maximum Floor-Area Ratio on lots containing both Residential and Nonresidential Facilities:

A. Permitted Floor-Area Ratio (FAR). The maximum permitted FAR is 4.00, except that this ratio may be exceeded by ten percent (10%) on any corner lot and may also be exceeded by ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot.

B. Conditionally Permitted Floor-Area Ratio (FAR). The FAR permitted by Subsection A. of this Section may be increased by not to exceed fifty percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040;

2. For any facility, upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6117)

17.74.140 Maximum height.

Except as provided in Chapter 17.128, no general maximum height is prescribed, except that the height of facilities shall be limited, as prescribed in Section 17.108.010, on lots lying along a boundary of any of certain other zones. But see Section 17.74.100 for maximum height of Signs, and Section 17.108.130 for maximum height of facilities within minimum yards and courts.

(Ord. 11904 § 5.87, 1996: prior planning code § 6119)

17.74.150 Minimum yards and courts.

The following minimum yards and courts shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130:

A. Front Yard. The minimum front yard depth on every lot shall be ten (10) feet.

B. Side Yard—Street Side of Corner Lot. The minimum side yard width on the street side of every corner lot shall be ten (10) feet.

C. Side Yard—Interior Lot Line. No side yard is generally required along an interior side lot line except as follows:

1. A side yard shall be provided, when and as prescribed in Section 17.108.080, for Residential Facilities.

2. A side yard shall be provided, as prescribed in Section 17.108.090, along an interior side lot line lying along a boundary of any of certain other zones.

D. Rear Yard. The minimum rear yard depth on every lot shall be ten (10) feet.

E. Courts. On each lot containing a Residential Facility, courts shall be provided when and as required by Section 17.108.120.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6120)

17.74.160 Minimum usable open space.

On each lot containing Residential Facilities with a total of two or more living units, group usable open space shall be provided for such facilities in the minimum amount of one hundred fifty (150) square feet per regular dwelling unit plus one hundred (100) square feet per efficiency dwelling unit plus seventy-five (75) square feet per rooming unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020. All required space shall conform to the standards for required usable open space in Chapter 17.126.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6121)

17.74.170 Buffering.

All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, and storage areas; control of artificial illumination; and other matters specified therein.

(Prior planning code § 6122)

17.74.180 Special regulations for Mini-Lot and Planned Unit Developments.

A. **Mini-Lot Developments.** In Mini-Lot Developments, certain of the regulations otherwise applying to individual lots in the S-1 Zone may be waived or modified when and as prescribed in Chapter 17.142.

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 S-1 Zone, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; prior planning code § 6123)

17.74.190 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 S-1 Zone.

F. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in S-1 Zone.

(Ord. 12884 § 2 (part), 2008; Ord. 11807 § 5 (part), 1995; prior planning code § 6124)

Chapter 17.76 S-2 CIVIC CENTER ZONE REGULATIONS

Sections:

17.76.010 Title, purpose, and applicability.

17.76.040 Required design review process.

17.76.050 Permitted activities.

17.76.060 Conditionally permitted activities.

17.76.070 Permitted facilities.

17.76.080 Conditionally permitted facilities.

17.76.090 Special regulations applying to certain Commercial Activities.

17.76.095 Special regulations applying to Extensive Agriculture.

17.76.100 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity.

17.76.110 Use permit criteria for Commercial Activities.

17.76.120 Limitations on Signs.

17.76.130 Minimum lot area, width, and frontage.

17.76.140 Maximum residential density.

17.76.150 Maximum Floor-Area Ratio.

17.76.160 Maximum height.

17.76.170 Minimum yards and courts.

17.76.180 Minimum usable open space.

17.76.190 Buffering.

17.76.200 Special regulations for Mini-Lot Developments, Planned Unit Developments, and large-scale developments.

17.76.210 Other zoning provisions.

17.76.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the S-2 Civic Center Zone Regulations. The Civic Center (S-2) Zone is intended to create, preserve, and enhance areas devoted primarily to major public and quasi-public facilities and auxiliary uses, and is typically appropriate to portions of the Oakland Central District and to outlying areas of public facilities. These regulations shall apply in the S-2 Zone.

(Prior planning code § 6150)

17.76.040 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11904 § 5.60 (part), 1996: prior planning code § 6152.1)

17.76.050 Permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, are permitted:

A. Residential Activities:

Permanent

Residential Care occupying a One-Family Dwelling Residential Facility

Supportive Housing

Transitional Housing

Semi-Transient

B. Civic Activities:

Essential Service (Community Gardens are permitted outright if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. The cultivation of animals, animal products and/or livestock production, except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit - see Chapter 17.134 for the CUP procedure)

Limited Child-Care

Community Assembly

Recreational Assembly

Community Education

Nonassembly Cultural

Administrative

C. Commercial Activities:

Medical Service

Consultative and Financial Service

Administrative

D. Agricultural and Extractive Activities:

Limited Agriculture, permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure)

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 5 (part), 1999; Ord. 11904 § 5.76, 1996; prior planning code § 6153)

17.76.060 Conditionally permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Residential Activities:

Residential Care, except when occupying a One-Family Dwelling Residential Facility

Emergency Shelter

B. Civic Activities:

Health Care

Utility and Vehicular

Extensive Impact

C. Commercial Activities:

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Fast-Food Restaurant

Convenience Market

Alcoholic Beverage Sales

General Retail Sales

Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)

Consumer Cleaning and Repair Service

Consumer Dry Cleaning Plant

Group Assembly

Personal Instruction and Improvement Services

Business, Communication, and Media Service

Broadcasting and Recording Service

Research Service

Transient Habitation (see Section 17.103.050)

Automobile and Other Light Vehicle Gas Station and Servicing

Automotive Fee Parking

D. Agricultural and Extractive Activities:

Extensive Agriculture (see Section 17.76.095)

E. Off-street parking serving activities other than those listed above or in Section 17.76.050, subject to the conditions set forth in Section 17.116.075.

F. Activities that are listed neither as permitted nor conditionally permitted but are permitted or conditionally permitted on nearby lots in an adjacent zone, subject to the conditions set forth in Section 17.102.110

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 5 (part), 1999; prior planning code § 6154)

17.76.070 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

A. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.103.080

Two-Family Dwelling

Multifamily Dwelling

Rooming House

B. Nonresidential Facilities:

Enclosed

Open, accommodating Civic Activities, Limited Agriculture, seasonal sales, or special events only

C. Signs:

Residential

Special

Development

Realty

Civic

Business

D. Telecommunications:

Micro, except when a Major Conditional Use Permit is required by Section 17.128.025

Mini, except when a Major Conditional Use Permit is required by Section 17.128.025

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13060, § 2(Exh. A), 3-1-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 11904 § 5.80, 1996; prior planning code § 6155)

17.76.080 Conditionally permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Nonresidential Facilities:

Open, accommodating activities other than Civic Activities, Limited Agriculture, seasonal sales, or special events

Drive-In

Sidewalk Cafes

B. Off-Street Parking Facilities serving 50 or more vehicles.

C. Telecommunications:

Macro Telecommunications

Monopole Telecommunications

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 11904 § 5.84, 1996; prior planning code § 6156)

17.76.090 Special regulations applying to certain Commercial Activities.

All conditionally permitted Commercial Activities other than Automotive Fee Parking shall, except for open-air dining facilities, accessory off-street parking and loading, and maintenance of accessory landscaping and screening, be conducted entirely within enclosed buildings. See also Section 17.103.030.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 6158)

17.76.095 Special regulations applying to Extensive Agriculture.

Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

A. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

Editor's note—

Ord. No. 13060, § 2(Exh. A), adopted March 1, 2011, repealed the former Section 17.76.095 in its entirety, which pertained to restrictions on telecommunications facilities and derived from Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010.

17.76.100 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity.

See Section 17.102.230.

(Prior planning code § 6159)

17.76.110 Use permit criteria for Commercial Activities.

A conditional use permit for any conditionally permitted Commercial Activity may 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 all of the following additional use permit criteria:

A. That the proposed activity is intended primarily to serve the civic center area in which it is located or the employees and patrons of the center;

B. That the proposed activity will not create or aggravate traffic congestion or interfere with the movement of traffic generated by permitted activities;

C. That the proposed activity is accommodated or served by facilities of such size, design, and location as will tend to keep the activity subordinate in impact and function to permitted activities within the civic center area.

See also Section 17.102.210.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6161)

17.76.120 Limitations on Signs.

All Signs shall be subject to the applicable limitations set forth in Section 17.104.030.

(Prior planning code § 6163)

17.76.130 Minimum lot area, width, and frontage.

Every lot shall have a minimum lot area of four thousand (4,000) square feet and a minimum lot width mean of twenty-five (25) feet, except as a lesser area or width is allowed by Section 17.03.010. Every lot shall have a minimum frontage of twenty-five (25) feet upon a street, except as this requirement is modified by Section 17.106.020.

(Prior planning code § 6164)

17.76.140 Maximum residential density.

The maximum density of Residential Facilities shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum density on lots containing both Residential and Nonresidential Facilities. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms. No residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270.B and a Secondary Unit.

A. Permitted Density. One regular dwelling unit is permitted for each three hundred (300) square feet of lot area, provided that one extra such unit is permitted if a remainder of two hundred (200) square feet or more is obtained after division of the lot area by three hundred (300) square feet. One efficiency dwelling unit is permitted for each two hundred (200) square feet of lot area, provided that one extra such unit is permitted if a remainder of one hundred fifty (150) square feet or more is obtained after division of the lot area by two hundred (200) square feet. One rooming unit is permitted for each one hundred fifty (150) square feet of lot area, provided that one extra such unit is permitted if a remainder of one hundred (100) square feet or more is obtained after division of the lot area by one hundred fifty (150) square feet. For a combination of different types of living units, the total required lot area shall be the sum of the above requirements for each. The number of living units permitted heretofore may be exceeded by ten percent (10%) on any corner lot, and may also be exceeded by ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot. A One-Family Dwelling or a One-Family Dwelling with Secondary Unit is permitted on any lot which qualifies under Section 17.106.010 as an existing buildable parcel and that contains no other dwelling units.

B. Conditionally Permitted Density. The number of living units permitted by Subsection A. of this Section may be increased by not to exceed fifty percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

    1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040;

    2. Upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

The number of living units may also be increased, as prescribed in Section 17.106.060, in certain special housing.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 6165)

17.76.150 Maximum Floor-Area Ratio.

The maximum Floor-Area Ratio of any facility shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum Floor-Area Ratio on lots containing both Residential and Nonresidential Facilities:

A. Permitted Floor-Area Ratio (FAR). The maximum permitted FAR is 3.50, except that this ratio may be exceeded by ten percent (10%) on any corner lot and may also be exceeded by ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot.

B. Conditionally Permitted Floor-Area Ratio (FAR). The FAR permitted by Subsection A. of this Section may be increased by not to exceed fifty percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040;

2. For any facility, upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6167)

17.76.160 Maximum height.

Except as provided in Chapter 17.128, no general maximum height is prescribed, except that the height of facilities shall be limited, as prescribed in Section 17.108.010, on lots lying along a boundary of any of certain other zones. But see Section 17.76.120 for maximum height of Signs, and Section 17.108.130 for maximum height of facilities within minimum yards and courts.

(Ord. 11904 § 5.88, 1996: prior planning code § 6169)

17.76.170 Minimum yards and courts.

The following minimum yards and courts shall be provided unobstructed except for the structures or the other facilities allowed therein by Section 17.108.130:

A. Front Yard. The minimum front yard depth on every lot shall be ten (10) feet.

B. Side Yard—Street Side of Corner Lot. The minimum side yard width on the street side of every corner lot shall be ten (10) feet.

C. Side Yard—Interior lot line. No side yard is generally required along an interior side lot line except as follows:

1. A side yard shall be provided, when and as prescribed in Section 17.108.080, for Residential Facilities.

2. A side yard shall be provided, as prescribed in Section 17.108.090, along an interior side lot line lying along a boundary of any of certain other zones.

D. Rear Yard. The minimum rear yard depth on every lot shall be ten (10) feet, except as a lesser depth is allowed by Section 17.108.110.

E. Courts. On each lot containing a Residential Facility, courts shall be provided when and as required by Section 17.108.120

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6170)

17.76.180 Minimum usable open space.

On each lot containing Residential Facilities with a total of two (2) or more living units, group usable open space shall be provided for such facilities in the minimum amount of one hundred fifty (150) square feet per regular dwelling unit plus one hundred (100) square feet per efficiency dwelling unit plus seventy-five (75) square feet per rooming unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020. All required space shall conform to the standards for required usable open space in Chapter 17.126.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6171)

17.76.190 Buffering.

All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, and storage areas; control of artificial illumination; and other matters specified therein.

(Prior planning code § 6172)

17.76.200 Special regulations for Mini-Lot Developments, Planned Unit Developments, and large-scale developments.

A. **Mini-Lot Developments.** In Mini-Lot Developments, certain of the regulations otherwise applying to individual lots in the S-2 Zone may be waived or modified when and as prescribed in Chapter 17.142.

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 S-2 Zone, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

C. **Large-Scale Developments.** No development which involves more than one hundred thousand (100,000) square feet of new floor area, or a new building or portion thereof of more than one hundred twenty (120) feet in height, shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. This requirement shall not apply to development where a valid Planned Unit Development permit is in effect.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; prior planning code § 6173)

17.76.210 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 S-2 Zone.

F. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the S-2 Zone.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12884 § 2 (part), 2008; amended during 1997 codification; Ord. 11807 § 5 (part), 1995; prior planning code § 6174)

Chapter 17.78 S-3 RESEARCH CENTER ZONE REGULATIONS

Sections:

17.78.010 Title, purpose, and applicability.

17.78.020 Required design review process.

17.78.030 Permitted activities.

17.78.040 Conditionally permitted activities.

17.78.050 Permitted facilities.

17.78.060 Conditionally permitted facilities.

17.78.065 Special regulations applying to Extensive Agriculture.

17.78.070 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity.

17.78.080 Performance standards for Commercial Activities.

17.78.090 Limitations on Signs.

17.78.100 Minimum lot area, width, and frontage.

17.78.110 Maximum Floor-Area Ratio.

17.78.120 Maximum height.

17.78.130 Minimum yards.

17.78.140 Buffering and landscaping.

17.78.150 Other zoning provisions.

17.78.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the S-3 Research Center Zone Regulations. The Research Center (S-3) Zone is intended to create, preserve, and enhance areas devoted primarily to conference, research, administrative, and recreational activities in attractive surroundings conducive to such pursuits, and is typically appropriate to relatively secluded locations. These regulations shall apply in the S-3 Zone.

(Prior planning code § 6200)

17.78.020 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12606 Att. A (part), 2004: Ord. 11904 § 5.63 (part), 1996: prior planning code § 6202)

17.78.030 Permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, are permitted:

A. Civic Activities:

Essential Service (Community Gardens are permitted outright if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. The cultivation of animals, animal products and/or livestock production, except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit - see Chapter 17.134 for the CUP procedure)

Nonassembly Cultural

B. Commercial Activities:

Administrative

Research Service

C. Agricultural and Extractive Activities:

Limited Agriculture, permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure)

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 11904 § 5.77, 1996; prior planning code § 6203)

17.78.040 Conditionally permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Civic Activities:

Community Assembly

Recreational Assembly

Administrative

Utility and Vehicular

Extensive Impact

B. Agricultural and Extractive Activities:

Extensive Agriculture (see Section 17.78.065)

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Prior planning code § 6204)

17.78.050 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

A. Nonresidential Facilities:

Enclosed

Open, accommodating Civic Activities, Limited Agriculture, seasonal sales, or special events only

B. Signs:

Special

Development

Realty

Civic

Business

C. Telecommunications

Micro Telecommunications, except when a Major Conditional Use Permit is required by Section 17.128.025

Mini Telecommunications, except when a Major Conditional Use Permit is required by Section 17.128.025

(Ord. No. 13060, § 2(Exh. A), 3-1-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 11904 § 5.81, 1996; prior planning code § 6205)

17.78.060 Conditionally permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Nonresidential Facilities:

Open, accommodating activities other than Civic Activities, Limited Agriculture, seasonal sales, or special events

B. Telecommunications:

Macro

Monopole

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 11904 § 5.85, 1996; prior planning code § 6206)

17.78.065 Special regulations applying to Extensive Agriculture.

Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

A. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

Editor's note—

Ord. No. 13060, § 2(Exh. A), adopted March 1, 2011, repealed the former Section 17.78.065 in its entirety, which pertained to restrictions on telecommunications facilities and derived from Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010.

17.78.070 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity.

See Section 17.102.230.

(Prior planning code § 6209)

17.78.080 Performance standards for Commercial Activities.

All Commercial Activities shall be subject to the applicable provisions of the performance standards in Chapter 17.120.

(Prior planning code § 6210)

17.78.090 Limitations on Signs.

All Signs shall be subject to the applicable limitations set forth in Chapter 17.104.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6213)

17.78.100 Minimum lot area, width, and frontage.

Every lot shall have a minimum lot area of two (2) acres and a minimum lot width mean of one hundred (100) feet. Every lot shall have a minimum frontage of twenty-five (25) feet upon a street, except as this requirement is modified by Section 17.106.020.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6214)

17.78.110 Maximum Floor-Area Ratio.

The maximum Floor-Area Ratio (FAR) of any facility shall be 0.50.

(Prior planning code § 6217)

17.78.120 Maximum height.

Except for the projections allowed by Section 17.108.030, and except as provided in Chapter 17.128, no building shall exceed forty-five (45) feet in height unless the building, or that portion thereof which exceeds forty-five (45) feet in height, is set back from the inner line of each of the minimum side yards required by Section 17.78.130C a minimum horizontal distance equal to one (1) foot for each two (2) feet by which it exceeds forty-five (45) feet in height. See Section 17.78.090 for maximum height of Signs, and Section 17.108.130 for maximum height of facilities within minimum yards.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 11904 § 5.89, 1996: prior planning code § 6219)

17.78.130 Minimum yards.

The following minimum yards shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130:

A. Front Yard. The minimum front yard depth on every lot shall be fifty (50) feet.

B. Side Yard—Street Side of Corner Lot. The minimum side yard width on the street side of every corner lot shall be fifty (50) feet.

C. Side Yard—Interior Lot Line. The minimum width of the side yard along any single interior side lot line of any lot shall be twenty (20) feet. The minimum combined width of both such side yards shall be fifty (50) feet.

D. Rear Yard. The minimum rear yard depth on every lot shall be thirty (30) feet, except that the minimum rear yard depth shall be fifty (50) feet along any portion of a rear lot line which abuts a lot in any Residential Zone.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 6220)

17.78.140 Buffering and landscaping.

A. General Requirements. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, and storage areas; control of artificial illumination; and other matters specified therein.

B. Buffer Strip. A strip of dense landscaping not less than five and one-half (5½) feet high and ten (10) feet wide, and including trees, shall be provided along all lot lines which abut a lot in any Residential Zone, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter.

C. Landscaping Coverage. A minimum of forty percent (40%) of the lot area of each lot shall be developed with lawn, ground cover, garden, shrubs, or trees, subject to the standards for required landscaping and screening.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 6222)

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

D. General Provisions. The general exceptions and other regulations set forth in Chapter 17.102 shall apply in the S-3 Zone.

E. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the S-3 Zone.

(Ord. 12884 § 2 (part), 2008; amended during 1997 codification; Ord. 11807 § 5 (part), 1995; prior planning code § 6224)

Chapter 17.80 S-4 DESIGN REVIEW COMBINING ZONE REGULATIONS

Sections:

17.80.010 Title, purpose, and applicability.

17.80.020 Zones with which the S-4 Zone may be combined.

17.80.030 Required design review process.

17.80.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the S-4 Design Review Combining Zone Regulations. The Design Review Combining (S-4) Zone is intended to create, preserve, and enhance the visual harmony and attractiveness of areas which require special treatment and the consideration of relationships between facilities, and is typically appropriate to areas of special community, historical, or visual significance. These regulations shall apply in the S-4 Zone, and are supplementary to the regulations applying in the zones with which the S-4 Zone is combined.

(Prior planning code § 6250)

17.80.020 Zones with which the S-4 Zone may be combined.

The S-4 Zone may be combined with any other zone.

(Prior planning code § 6251)

17.80.030 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12501 § 58, 2003: prior planning code § 6252)

Chapter 17.81 RESERVED [33]

FOOTNOTE(S):

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Editor's note— Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, repealed Chapter 17.81 in its entirety. Formerly, Chapter 17.81, §§ 17.81.10—17.81.100 pertained to the S-5 Broadway Retail Frontage Interim Combining Zone Regulations, and derived from Ord. No. 12850, § 2(Exh. A), adopted 2008; Ord. No. 12859, Exh. A, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008, and Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009. (Back)

Chapter 17.82 S-6 MOBILE HOME COMBINING ZONE REGULATIONS

Sections:

17.82.010 Title, purpose, and applicability.

17.82.020 Zones with which the S-6 Zone may be combined.

17.82.030 Additional permitted facilities.

17.82.040 Mobile Home park standards.

17.82.050 Mobile Home site standards.

17.82.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the S-6 Mobile Home Combining Zone Regulations. The Mobile Home Combining (S-6) Zone is intended to create, preserve, and enhance areas containing attractive Mobile Home Parks, and is typically appropriate to a variety of living environments with good access to major thoroughfares. These regulations shall apply in the S-6 Zone, and are supplementary to the regulations applying in the zones with which the S-6 Zone is combined.

(Prior planning code § 6350)

17.82.020 Zones with which the S-6 Zone may be combined.

The S-6 Zone may be combined only with a Residential or Commercial Zone.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6351)

17.82.030 Additional permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted in addition to those permitted in the zones with which the S-6 Zone is combined:

A. Residential Facilities:

Mobile Home.

(Prior planning code § 6355)

17.82.040 Mobile Home park standards.

A. Minimum Size. Mobile Home Residential Facilities shall not be located on any lot having a lot area of less than forty-five thousand (45,000) square feet.

B. Maximum Density. The maximum density in a Mobile Home Park shall be one (1) Mobile Home for each three thousand three hundred (3,300) square feet of lot area in such park.

C. Minimum Usable Open Space. Group usable open space shall be provided in the minimum amount of three hundred (300) square feet per Mobile Home. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020,

except that actual group space shall be provided in the minimum amount of one hundred fifty (150) square feet per Mobile Home. All required space shall conform to the standards for required usable open space in Chapter 17.126.

D. Landscaping. All areas in a Mobile Home park which are not devoted to Mobile Home pads, walkways, driveways, parking or loading areas, patios, usable open space, or recreation or service facilities shall be developed with lawn, ground cover, garden, shrubs, or trees, subject to the standards for required landscaping and screening in Chapter 17.124. Dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide shall be provided along all lot lines, exclusive of necessary walkways and driveways, subject to the standards for required landscaping and screening and the exceptions stated therein.

E. Walkways. Walkways shall provide direct access between abutting streets and all individual Mobile Home sites.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6358)

17.82.050 Mobile Home site standards.

The site for each individual Mobile Home shall have a minimum area of two thousand (2,000) square feet and a minimum width mean of thirty (30) feet. No Mobile Home shall be closer than twenty (20) feet to any other Mobile Home or to any street line, nor closer than ten (10) feet to any lot line other than a street line.

(Prior planning code § 6359)

Chapter 17.84 S-7 PRESERVATION COMBINING ZONE REGULATIONS

Sections:

17.84.010 Title, purpose, and applicability.

17.84.020 Zones with which the S-7 Zone may be combined.

17.84.030 Required design review process.

17.84.040 Design review criteria for construction or alteration.

17.84.050, 17.84.060 Reserved.

17.84.070 Duty to keep in good repair.

17.84.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the S-7 Preservation Combining Zone Regulations. The Preservation Combining (S-7) Zone is intended to preserve and enhance the cultural, educational, aesthetic, environmental, and economic value of structures, other physical facilities, sites, and areas of special importance due to historical association, basic architectural merit, the embodiment of a style or special type of construction, or other special character, interest, or value, and is typically appropriate to selected older locations in the City. These regulations shall apply in the S-7 Zone, and are supplementary to the provisions of Section 17.136.070 and to the other regulations applying in the zones with which the S-7 Zone is combined.

(Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 6400)

17.84.020 Zones with which the S-7 Zone may be combined.

The S-7 Zone may be combined with any other zone.

(Prior planning code § 6401)

17.84.030 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, Designated Historic Property, Potentially Designated Historic Property, Telecommunications Facility, Sign, or other associated structure shall he 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 additional provisions in Sections 17.84.040, 17.84.050, and 17.84.060; the Telecommunications regulations in Chapter 17.128; or the Sign regulations in Chapter 17.104.

B. Section 17.136.075 contains design review criteria for the demolition or removal of Designated Historic Properties (DHPs) and Potentially Designated Historic Properties (PDHPs).

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12501 § 60, 2003: prior planning code § 6402)

17.84.040 Design review criteria for construction or alteration.

In the S-7 Zone, proposals requiring Regular design review approval pursuant to Section 17.84.030 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 design review criteria:

A. That the proposal will not substantially impair the visual, architectural, or historic value of the affected site or facility. Consideration shall be given to design, form, scale, color, materials, texture, lighting, detailing and ornamentation, landscaping, Signs, and any other relevant design element or effect, and, where applicable, the relation of the above to the original design of the affected facility.

B. That the proposed development will not substantially impair the visual, architectural, or historic value of the total setting or character of the surrounding area or of neighboring facilities. Consideration shall be given to integration with, and subordination to, the desired overall character of any such area or grouping of facilities. All design elements or effects specified in Subsection A. of this Section shall be so considered.

C. That the proposal conforms with the Design Guidelines for Landmarks and Preservation Districts as adopted by the City Planning Commission and, as applicable for certain federally-related projects, with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

(Ord. 12776 § 3, Exh. A (part), 2006: Ordinance 12513 Attach. A (part), 2003: Prior planning code § 6403)

17.84.050, 17.84.060 Reserved.

Editor's note—

Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010, repealed the former Sections 17.84.050 and 17.84.060 in their entirety, which pertained to design review criteria for demolition or removal, and postponement of demolition or removal, respectively, and derived from the prior planning code, §§ 6404, 6405; Ord. No. 12237, § 4(part), adopted in 2000, and Ord. No. 12776, § 3(Exh. A(part)), adopted in 2006.

17.84.070 Duty to keep in good repair.

Except as otherwise authorized under Sections 17.84.030 and 17.84.050, the owner, lessee, or other person in actual charge of each structure in the S-7 Zone shall keep in good repair all of the exterior portions thereof, as well as all interior portions the maintenance of which is necessary to prevent deterioration and decay of any exterior portion.

(Prior planning code § 6406)

Chapter 17.86 RESERVED [34]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.86, §§ 17.86.010—17.86.110 in its entirety, which pertained to S-8 urban street combining zone regulations and derived from the prior planning code, §§ 6450—6454, 6457, 6458, 6461, 6462; Ord. No. 12606, Att. A, adopted 2004; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010, and Ord. No. 13042, § 4(Exh. A), adopted October 19, 2010. (Back)

Chapter 17.88 RESERVED [35]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.88, §§ 17.88.010—17.88.040 in its entirety, which pertained to S-9 retail frontage combining zone regulations and derived from the prior planning code, §§ 6500, 6501, 6504, 6511; Ord. No. 12776, § 3(Exh. A), adopted 2006, and Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009. (Back)

Chapter 17.90 S-10 SCENIC ROUTE COMBINING ZONE REGULATIONS

Sections:

17.90.010 Title, purpose, and applicability.

17.90.020 Zones with which the S-10 Zone may be combined.

17.90.030 Required design review process.

17.90.040 Restriction on driveway access.

17.90.050 Design review criteria.

17.90.060 Restriction on subdivisions in the Shepherd Canyon Corridor.

17.90.070 Restriction of height on downslope lots.

17.90.080 Conditional use permit for waiver of certain requirements in the Shepherd Canyon Corridor.

17.90.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the S-10 Scenic Route Combining Zone Regulations. The Scenic Route Combining (S-10) Zone is intended to create, preserve, and enhance areas where hillside terrain, wooded canyons and ridges, and fine vistas or panoramas of Oakland, neighboring areas, or the Bay can be seen from the road, and is typically appropriate to roads along or near ridges, or through canyons, of the Oakland Hills which roads have good continuity and relatively infrequent vehicular access from abutting properties. These regulations shall apply in the S-10 Zone, and are supplementary to the regulations applying in the zones with which the S-10 Zone is combined.

(Prior planning code § 6550)

17.90.020 Zones with which the S-10 Zone may be combined.

The S-10 Zone may be combined with any other zone.

(Prior planning code § 6551)

17.90.030 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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 additional provisions in Section 17.90.050, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

(Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12501 § 62, 2003: prior planning code § 6552)

17.90.040 Restriction on driveway access.

No driveway shall have access to Grizzly Peak Boulevard, Skyline Boulevard, Tunnel Road, or Shepherd Canyon Road, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination:

A. That vehicular access cannot reasonably be provided from a different street or other way; and

B. That every reasonable effort has been made to share means of vehicular access with abutting properties.

However, a conditional use permit is not required in cases where site development and design review approval authorizing the driveway access has been granted pursuant to Sections 17.92.030 and 17.92.050.

(Prior planning code § 6557)

17.90.050 Design review criteria.

In the S-10 Zone, proposals requiring Regular design review approval pursuant to Section 17.90.030 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 both of the following additional criteria:

A. That the siting, grading, and design will, to the maximum extent feasible, preserve existing live trees and other desirable natural features;

B. That the proposed development will, as far as practicable, maintain existing vistas or panoramas which can be seen from the abutting public road and maintain the visual value of the total setting or character of the surrounding area.

(Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 6562)

17.90.060 Restriction on subdivisions in the Shepherd Canyon Corridor.

Within the area shown as "RH-3, S-10" on Map 4 of the Shepherd Canyon Corridor Plan adopted by the City Council, no land shall be subdivided into two or more lots, and no lot line shall be moved more than five (5) feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination:

A. That the proposal is consistent in all significant respects with the Shepherd Canyon Corridor Plan; and

B. That every reasonable effort has been made to locate the building sites so as to maximize the conservation of open space which is valuable for visual, recreational, ecological, drainage, or safety purposes.

The above requirement is in addition to all applicable substantive and procedural regulations of the Oakland Municipal Code with respect to subdivisions and parcel maps. However, a conditional use permit is not required in cases where a Planned Unit Development permit authorizing the proposal has been granted pursuant to the Planned Unit Development procedure in Chapter 17.140.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6564)

17.90.070 Restriction of height on downslope lots.

The following height restriction shall apply to each lot which abuts Grizzly Peak Boulevard, Skyline Boulevard, or Tunnel Road and which has an average elevation of finished grade less than the average elevation of the nearest edge of the paved roadway of such boulevard or road. Except for the projections allowed by Section 17.108.030, no building or other facility or portion thereof shall extend above any line beginning three (3) feet above any point on the nearest edge of the aforesaid roadway and extending outward at right angles to said edge and downward over the lot at an angle of six (6) degrees to the horizontal.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6569)

17.90.080 Conditional use permit for waiver of certain requirements in the Shepherd Canyon Corridor.

The following provisions shall apply within the area shown as "RH-3, S-10" on Map 4 of the Shepherd Canyon Corridor Plan adopted by the City Council:

A. Basic Provisions. Subject to the provisions of Subsection B. of this Section, the maximum height and the minimum yard and lot area, width, and frontage requirements otherwise applying to individual lots may be waived or modified within a subdivision or development, and parking may be located within the subdivision or development without reference to lot lines, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination:

   1. That the waiver or modification will promote an improved arrangement of structures and circulation which will preserve and enhance open space, for visual, recreational, ecological, drainage, or safety purposes, more effectively than what the standard requirements would allow; and

   2. That there is adequate provision for maintenance of the open space and other facilities within the subdivision or development.

B. Minimum Size Under This Procedure. A conditional use permit pursuant to Subsection A. of this Section may be granted only if the total land area of the subdivision or development is less than four (4) acres.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6573)

Chapter 17.92 S-11 SITE DEVELOPMENT AND DESIGN REVIEW COMBINING ZONE REGULATIONS

Sections:

17.92.010 Title, purpose, and applicability.

17.92.020 Zones with which the S-11 Zone may be combined.

17.92.030 Required design review process.

17.92.040 Siting of units on certain properties.

17.92.050 Design review criteria.

17.92.060 Limitations on residential density.

17.92.070 Waiver of certain requirements through regular design review.

17.92.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the S-11 Site Development and Design Review Combining Zone Regulations. The Site Development and Design Review Combining (S-11) Zone is intended to create, preserve, and enhance areas subject to the North Oakland Hill Area Specific Plan adopted by the City Council and to assure that development there is sensitively integrated with the land forms, view corridors, and vegetation masses. These regulations shall apply in the S-11 Zone and are supplementary to the regulations applying in the zones with which the S-11 Zone is combined.

(Prior planning code § 6600)

17.92.020 Zones with which the S-11 Zone may be combined.

The S-11 Zone may be combined with any other zone.

(Prior planning code § 6601)

17.92.030 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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 additional provisions in Section 17.92.050, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12501 § 64, 2003: prior planning code § 6602)

17.92.040 Siting of units on certain properties.

On the properties for which the Site Development Map of the North Oakland Hill Area Specific Plan depicts siting of dwelling units, those facilities shall be located only at those approximate locations. However, a minor conditional use permit for an alternative development scheme may be granted pursuant to the conditional use permit procedure in Chapter 17.134 upon determination that the alternative scheme would serve the goals of the North Oakland Hill Area Specific Plan as well as, or better than, the pattern depicted on the Site Development Map.

(Prior planning code § 6608)

17.92.050 Design review criteria.

In the S-11 Zone, proposals requiring Regular design review approval pursuant to Section 17.92.030 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 the following additional criteria:

A. That the siting, clearing, landscaping, and other relevant features of the proposal will conform in all significant respects with the Vegetation Management Prescriptions of the North Oakland Hill Area Specific Plan;

B. That the proposal will conform in all significant respects with the Site Development Map of the North Oakland Hill Area Specific Plan with respect to the protection of view corridors and vegetation masses;

C. That, after due consideration has been given to other criteria, any proposed vehicular access will be provided at the safest point of entry from the appropriate street;

D. That the proposal will duly take into account any special geotechnical or similar constraint affecting the property;

E. That the proposal will involve the minimum possible amount of grading, consistent with the attainment of other criteria set forth in this Section, and that an acceptable grading and/or erosion and sedimentation control plan, where required, has been or will be submitted;

F. That, in conjunction with criterion E of this Section, retaining walls of excessive height and/or length will be avoided. Projects involving retaining walls over eight (8) feet in height and/or grading or removal of material in excess of five hundred (500) cubic yards shall be referred to the Director of City Planning for Regular design review pursuant to Chapter 17.136;

G. That fire hydrants will be provided consistent with the City of Oakland Fire Prevention Bureau's requirements;

H. That, where feasible, solar orientation and energy conservation techniques will be suitably incorporated in the overall design;

I. That if the proposal involves developing dwelling units on a property for which the Site Development Map of the North Oakland Hill Area Specific Plan depicts siting of those facilities, the provisions of Section 17.92.040 will be met;

J. That if the proposal involves creating driveway access to Grizzly Peak Boulevard, Skyline Boulevard, Tunnel Road, or Shepherd Canyon Road, it will meet the same criteria as are specified in Subsections A. and B. of Section 17.90.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12776, § 3(Exh. A), adopted 2006; prior planning code § 6612)

17.92.060 Limitations on residential density.

A. Overall Density. The maximum overall number of dwelling units within any development shall be whichever of the following is applicable and lowest:

1. The number of dwelling units implied by the applicable basic zone's minimum lot area requirement, and defined in the same manner as prescribed in Subsection A. of Section 17.142.110 and the first three sentences of Subsection B. of Section 17.142.110.
2. In the case of those properties for which the Site Development Map of the North Oakland Hill Area Specific Plan depicts siting of dwelling units, the number of dwelling units indicated by that map.
3. In the case of those properties where dwelling units are not shown on the Site Development Map of the North Oakland Hill Area Specific Plan, the lowest number of dwelling units derived from:
   a. Dividing the street frontage of the property by the minimum lot width mean requirement in the respective Residential Zone; and
   b. Counting the number of legally platted lots within the proposed development area; and
   c. Analyzing the project under the Regular design review process to affirm or lower the maximum theoretical density pursuant to Sections 17.92.030 and 17.92.050.

One through three above shall not be deemed to preclude such additional Secondary Units in the S-11 Zone as may be approved in accordance with the standards, criteria and conditions in Section 17.103.080.

B. Number of Units Per Unsubdivided Lot. An unsubdivided lot may not have more dwelling units when subdivided than are permitted per lot by the applicable basic zone.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. 12199 § 6, 2000; prior planning code § 6615)

17.92.070 Waiver of certain requirements through regular design review.

A. Reduction of Yard Requirements. Upon approval pursuant to Sections 17.92.030 and 17.92.050 the side yard may be varied within the following limits:

The side of a dwelling unit may be as close as six (6) feet to the side of an adjoining dwelling unit provided that its opposite side is separated from the side of other adjoining dwelling units by at least two (2) times the side yard normally required for a dwelling unit within that zone.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12776, § 3(Exh. A), adopted 2006; prior planning code § 6623)

Chapter 17.94 S-12 RESIDENTIAL PARKING COMBINING ZONE REGULATIONS

Sections:

17.94.010 Title, purpose, and applicability.

17.94.020 Zones with which the S-12 Zone may be combined.

17.94.030 Activities to which S-12 Zone regulations apply.

17.94.040 Off-street parking regulations—Residential Activities.

17.94.050 Standards for required parking facilities.

17.94.060 Parking spaces.

17.94.070 Maneuvering aisles.

17.94.080 Driveways.

17.94.090 Other dimensional requirements.

17.94.100 On-street parking regulations.

17.94.110 Alternate parking layouts.

17.94.120 Review and approval by City Traffic Engineer.

17.94.130 Exceptions, variances, and appeals.

17.94.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the S-12 Residential Parking Combining Zone Regulations. The Residential Parking Combining (S-12) Zone is intended to create, preserve, and enhance areas with high concentrations of Residential Facilities, to ensure that adequate off-street parking is provided for those facilities, and to maximize the general availability of on-street parking, and is typically appropriate in high density residential neighborhoods, adjacent commercial areas, and other neighborhoods where high concentrations of Residential Facilities may contribute to on-street parking congestion. These regulations shall apply in the S-12 Zone, and are supplemental to the regulations applying in the zones with which the S-12 Zone is combined.

(Prior planning code § 6650)

17.94.020 Zones with which the S-12 Zone may be combined.

The S-12 Zone may be combined with any other zone in which Residential Facilities are permitted or conditionally permitted.

(Prior planning code § 6651)

17.94.030 Activities to which S-12 Zone regulations apply.

The driveway regulations set forth in Section 17.94.080, the on-street parking regulations set forth in Section 17.94.100, and the related review and approval by the City Traffic Engineer set forth in Section 17.94.120, shall apply to all activities located in the S-12 Zone. All other provisions of the S-12 Zone shall apply only to Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, One-Family Dwelling with Secondary Unit, Two-Family Dwelling, or Multifamily Dwelling Residential Facility. The off-street parking requirements of all other activities located in the S-12 Zone shall be as set forth in Chapter 17.116.

(Ord. 12501 § 66, 2003: prior planning code § 6652)

17.94.040 Off-street parking regulations—Residential Activities.

Except as otherwise provided in Sections 17.116.020 and 17.116.030, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for all Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, One-Family Dwelling with Secondary Unit, Two-Family Dwelling, or Multifamily Dwelling Residential Facility. Such required parking shall be developed and maintained pursuant to the provisions of Section 17.94.050 through 17.94.090, unless an alternate parking layout is approved pursuant to Section 17.94.110. The special exceptions to parking requirements set forth in Section 17.116.110 shall not apply in the S-12 Zone.

A. Basic Requirement. One (1) off-street parking space shall be provided for each three (3) habitable rooms in the facility, as determined by the definition of "habitable rooms, number of in Section 17.09.040 and rounded to a whole number in accordance with the rules of Section 17.116.050, or the same number of spaces as required by the underlying base zone pursuant to Section 17.116.060 without regard to the provisions of the S-12 regulations, whichever is greater. Such parking shall be designated and permanently maintained for the use of residents of the facility.

B. Visitor Parking. Where the basic requirement of Subsection A. of this Section is five (5) spaces or more, an additional 0.2 spaces shall be provided for each dwelling unit in the facility, rounded to a whole number in accordance with the rules of Section 17.116.050. Such parking spaces shall be designated and permanently maintained for the use of visitors of the facility.

C. Handicapped Parking. Handicapped parking spaces shall be provided pursuant to the provisions of the California State Accessibility Standards contained in Parts 2, 3, and 5 of Title 24 of the California Administrative Code. Such spaces shall count towards the requirements of Subsections A. and B. of this Section, and shall not be in addition to those requirements.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12501 § 67, 2003: Ord. 11861 § 6, 1996; prior planning code § 6655)

17.94.050 Standards for required parking facilities.

The standards for required parking and loading facilities set forth in Article IV of Chapter 17.116 of the Oakland Planning Code, and the provisions of Chapters 12.04, 12.08, and 12.52 of the Oakland Municipal Code, shall apply in the S-12 Zone, except as specified in Sections 17.94.060 through 17.94.100. All required parking spaces and associated maneuvering aisles, driveways, and other related features shall be of such design and arrangement as to provide

motor vehicles with adequate ingress to and egress from all required parking spaces, and to provide pedestrians with adequate access to parked vehicles.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 6660)

17.94.060 Parking spaces.

The requirements of this Section shall apply only to Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, One-Family Dwelling with Secondary Unit, Two-Family Dwelling, or Multifamily Dwelling Residential Facility, and supersede the parking space dimensions set forth in Section 17.116.200 and the tandem space requirements set forth in Section 17.116.240.

A. Types of Parking Spaces and Dimensions. Four types of parking spaces are defined for required parking in the S-12 Zone: regular, intermediate, compact, and handicapped. Such spaces shall have the minimum dimensions set forth below, measured in feet.

Type of Parking Space	All Parking Except Parallel Length	All Parking Except Parallel Width	Parallel Parking Length	Parallel Parking Width
Regular	18	8½	22	8
Intermediate	16½	8	20½	7½
Compact	15	7½	19	7
Handicapped	*	*	*	*

* As set forth in the California State Accessibility Standards contained in Parts 2, 3, and 5 of Title 24 of the California Administrative Code.

B. Mixture of Parking Space Types. Up to fifty percent (50%) of the required parking spaces may be compact spaces, provided that at least fifty percent (50%) of the required spaces are regular and/or handicapped spaces. Alternatively, when five (5) or more parking spaces are required, up to seventy-five percent (75%) of the required spaces may be intermediate spaces, provided that if any required spaces are compact spaces, an equal or greater number of the required spaces shall be regular and/or handicapped spaces. The requirements of this Subsection shall apply separately to the parking spaces required by Section 17.94.040A and to the parking spaces required by Section 17.94.040B.

C. Location of Parking Spaces. On any lot located in the S-12 Zone and containing a One-Family Dwelling, One-Family Dwelling with Secondary Unit, Two-Family Dwelling, or Multifamily Dwelling Residential Facility, no parking spaces shall be located between the front lot line and the front wall of the facility or its projection across the lot, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that:

1. The parking spaces are required by Section 17.94.040; and

2. There is no other feasible way to provide the required parking; and

3. The applicable requirements of the buffering regulations in Chapter 17.110 are met; and

4. If the facility contains three (3) or more dwelling units, criteria 11 through 16 of the design review criteria for high density housing, pertaining to pedestrian entries, auto entries, landscaping, and accessories, are fully satisfied.

D. Tandem Spaces. Parking spaces required by Section 17.94.040.A may be tandem spaces provided that:

1. At least one (1) independent parking space shall be permanently assigned to each dwelling unit in the facility; and

2. For each pair of tandem spaces, both the independent space and the dependent space shall be permanently assigned to the same dwelling unit; and

3. At least one (1) space in each pair shall be a regular parking space.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12501 § 68, 2003: prior planning code § 6661)

17.94.070 Maneuvering aisles.

The requirements of this Section shall apply only to Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, One-Family Dwelling with Secondary Unit, Two-Family Dwelling, or Multifamily Dwelling Residential Facility, and supersede the requirements for Maneuvering Aisles set forth in Section 17.116.210.

A. Maneuvering Aisle Width. The width of maneuvering aisles serving regular, intermediate, and compact parking spaces shall be as set forth in Subsections (A)(1) through (A)(5) of this Section. The width of maneuvering aisles serving handicapped parking spaces shall be as set forth in the California State Accessibility Standards contained in Parts 2, 3, and 5 of Title 24 of the California Administrative Code.

1. Where parking is parallel: eleven (11) feet;

2. Where parking is at an angle of forty-five (45) degrees or less: twelve (12) feet;

3. Where parking is at an angle of sixty (60) degrees or less but more than forty-five (45) degrees: fifteen (15) feet;

4. Where parking is at an angle of seventy-five (75) degrees or less but more than sixty (60) degrees: eighteen (18) feet;

5. Where parking is at an angle of ninety (90) degrees or less but more than seventy-five (75) degrees: twenty-one (21) feet.

B. Alternate Maneuvering Aisle and Parking Space Widths. Except for parallel parking, the maneuvering aisle width required by Subsection A. of this Section may be reduced by one (1) foot, provided that all parking spaces served by the maneuvering aisle, other than handicapped spaces, are increased in width by one-half (½) foot.

C. Additional Maneuvering Aisle Length. An additional five (5) feet of maneuvering aisle length beyond the end stall farthest from the street shall be provided whenever the maneuvering aisle width required by Subsection A. of this Section is reduced in accordance with Subsection B. of this Section, if both of the following conditions are present:

1. Backing up to the street is prohibited by Section 17.116.250; and
2. A vehicle parked in the end stall farthest from the street would not otherwise be able to maneuver into a forward facing position in four movements or less. A movement, for purposes of this Section, shall be defined as the continuous travel of a vehicle in a single direction from starting point to stopping point.

(Ord. 12501 § 69, 2003: prior planning code § 6662)

17.94.080 Driveways.

The requirements of this Section shall apply to all activities located in the S-12 Zone, and supersede the minimum driveway width set forth in Section 17.116.210 of the zoning regulations and the requirements for driveway openings set forth in Subsections A. and B. of Section 12.04.270 of the Oakland Municipal Code.

A. Requirement for One-Lane Driveway. Except as provided in Subsections B. and C. of this Section, any driveway located in the S-12 Zone shall be a one-lane driveway.

B. Requirement for Two-Lane Driveway. A driveway that provides both ingress from and egress to a minimum number of required off-street parking spaces shall be a two-lane driveway, such minimum number of spaces depending upon the classification of the street to which the driveway provides access, as indicated in the Land Use and Transportation Element of the Oakland General Plan. The minimum number of spaces served requiring a two-lane driveway shall be as set forth below.

   1. On arterial streets: ten (10) spaces;
   2. On collector streets: fifteen (15) spaces;
   3. On all other streets: twenty (20) spaces.

C. Requirement for Wider Driveway et Discretion of City Traffic Engineer. At his or her discretion, pursuant to Section 17.94.120, the City Traffic Engineer may require a two-lane driveway for off-street parking facilities which would ordinarily require a one-lane driveway; and may require a wider driveway and driveway opening for a Nonresidential Facility located in the S-12 Zone if such driveway and driveway opening serve vehicular activities other than, or in addition to, the parking of automobiles. The width of such nonresidential driveway and driveway opening shall not exceed thirty-five (35) feet, as specified in Section 17.09.270A of the Oakland Municipal Code.

D. Number of Driveways and Driveway Openings. All activities located in the S-12 Zone shall be limited to a single driveway, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that:

   1. One or more of the driveways providing ingress to and egress from the required parking spaces would be one-way; or
   2. The activity occupies a facility which contains two (2) or more separate parking areas between which direct vehicular travel is not possible; or
   3. The number of parking spaces served is greater than or equal to twice the minimum number of spaces for which a two-lane driveway is required by Subsection B. of this Section, in which case one two-lane driveway may be provided for each multiple of such minimum number; or

4. The City Traffic Engineer determines that more than one driveway is necessary to ensure the safe and efficient operation of the activity.

E. Definition of One-Lane and Two-Lane Driveway. For purposes of this Section, a one-lane driveway shall be not less than nine (9) feet wide and not more than ten (10) feet wide, and its associated driveway opening shall be ten (10) feet wide; a two-lane driveway and its associated driveway opening shall be not less than eighteen (18) feet wide and not more than nineteen (19) feet wide.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6663)

17.94.090 Other dimensional requirements.

The requirements of this Section shall apply only to Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, Two-Family Dwelling, or Multifamily Dwelling Residential Facility.

A. Clear Space Next to a Wall or Other Obstruction. Where a regular, intermediate, or compact parking space is at an angle of ninety (90) degrees or less, but more than sixty (60) degrees, to a maneuvering aisle, and where such parking space abuts a wall or other similar obstruction which might interfere with pedestrian access to the space, a clear area shall be provided for the full length of the space on the same side as the wall or other obstruction; provided, however, that posts and other similar structural members may be located immediately adjacent to a required parking space when allowed by Subsection B. of this Section. For regular and intermediate spaces, the width of the clear area shall be two (2) feet, and for compact spaces, the width of the clear area shall be one and one-half (1½) feet. The requirements of this Subsection supersede the requirement of Section 17.116.200A for additional width of a regular parking space which abuts a wall or other, similar obstruction.

B. Posts and Other Obstructions. Posts and other similar structural members may be located immediately adjacent to a required parking space, provided that:

1. Such required parking space is a regular space or, if the City Traffic Engineer determines that sufficient maneuvering area is present, an intermediate or compact space; and

2. Such post or other similar structural member is located at least three (3) feet but not more than five (5) feet from the maneuvering aisle or located not more than four (4) feet from the end of the parking space opposite the maneuvering aisle; and

3. Such post or other similar structural member does not impede pedestrian access to vehicle parking in the space; and

4. Such posts and other similar structural members shall be located on one side only of a required parking space.

C. Vertical Clearance. All parking spaces, maneuvering aisles, and driveways shall have a full vertical clearance of no less than six feet eight inches (6’8”); provided, however, that the vertical clearance of no more than fifty percent (50%) of the required parking spaces may be reduced to no less than four (4) feet for a horizontal distance of no more than four (4) feet from the end of the space opposite the maneuvering aisle. Such reduced vertical clearance is not permitted for the independent parking space of any pair of tandem parking spaces.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6664)

17.94.100 On-street parking regulations.

The requirements of this Section shall apply to all activities located in the S-12 Zone, and supersede the minimum driveway separations set forth in Subsections C. and D. of Section 12.04.270 of the Oakland Municipal Code.

A. Requirement to Maximize On-Street Parking Spaces. The placement of driveway openings, fire hydrants, street trees, lampposts, signs, and any other potential obstacles to the usability of on-street parking shall be arranged so as to maximize the number of usable on-street parking spaces immediately in front of, and adjacent to, the lot containing the activity. Where the lot containing the activity has frontage on more than one street, the number of usable on-street parking spaces shall be maximized along all frontages. The method for calculating the number of required usable on-street parking spaces shall be as set forth in Subsection B. of this Section.

B. Calculation Rules for Required On-Street Parking Spaces. The number of usable on-street parking spaces required by Subsection A. of this Section shall be determined as set forth in steps 1 through 4 below. All measurements shall be in feet.

1. Measure the distance between the nearest parking obstructions on either side of the lot containing the activity.
2. Subtract the width of the driveway opening or openings provided pursuant to Section 17.94.080, plus one and one-half (1½) feet on either side of each driveway opening.
3. Subtract the width of any other parking obstructions immediately in front of the lot that presently exists or that would be constructed, located, or moved in conjunction with construction of the proposed driveway opening or openings.
4. Divide the number obtained in step 3 by twenty (20) feet.

The number thus obtained, disregarding any fractional part thereof, shall be the number of usable on-street parking spaces required by Subsection A. of this Section.

C. Definition of Parking Obstructions. For purposes of this Section, parking obstructions are any features, other than posted time limitations, which preclude or restrict the parallel on-street parking of an automobile, including but not limited to, the following:

1. Any existing driveway opening plus one and one-half (1½) feet on either side;
2. Any existing or required fire hydrant plus five (5) feet on either side;
3. Any marked or unmarked crosswalk, plus a distance on either side to be determined by the City Traffic Engineer;
4. Any red, yellow, green, white, blue, or other colored curb established by the City Traffic Engineer;
5. Any area posted by the City Traffic Engineer for "No Parking Any Time";
6. Any posted bus stop, the length of which shall be determined by the City Traffic Engineer if the curb is not marked;
7. Any handicapped curb cut, plus a distance on either side to be determined by the City Traffic Engineer;

8. Any metered parking space established by the City Traffic Engineer;
9. Any parking space signed or marked by the City Traffic Engineer for angle parking;
10. At approximate right-angle intersections, the curb return plus the area between the curb return and a point the following distance from the intersection of the curb lines projected: twenty (20) feet on the near side of the intersection, or ten (10) feet on the far side of the intersection, measured in the normal direction of vehicular travel. If no curb exists, the edge of the roadway where such curb return and the area specified above would be located;
11. Any section of curb or roadway edge located between any two parking obstructions as defined in Subsections (C)(1) through (C)(10) of this Section, that is currently, and that will remain, too short to be a usable on-street parking space as defined in Subsection D. of this Section;
12. Any section of curb or roadway edge along which the City Traffic Engineer determines that it is unsafe to park an automobile.

D. Definition of Usable On-Street Parking Space. For purposes of this Section, a usable on-street parking space is a section of unmarked curb or roadway edge twenty (20) feet in length which does not contain any of the parking obstructions defined in Subsection C. of this Section.

E. Determination by City Traffic Engineer in Special Circumstances. Where the street frontage of the lot containing the activity is in a parking meter zone or an area signed or marked for angle parking, or where the special characteristics of the proposed activity would preclude maximizing the number of usable on-street parking spaces, or in other special circumstances where the rules of Subsection B. of this Section cannot reasonably be applied, the number of required usable on-street parking spaces, and the required placement of driveway openings and other potential obstacles to usable on-street parking shall be determined by the City Traffic Engineer.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6665)

17.94.110 Alternate parking layouts.

Layouts of off-street parking spaces, maneuvering aisles, driveways, driveway openings, and other related features different from those prescribed in Sections 17.94.060 through 17.94.090 may be approved with a conditional use permit granted pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that:

A. The number of off-street parking spaces required by Section 17.94.040 are provided in the mixture of types set forth in Section 17.94.060B; and

B. The alternate parking layout is approved by the City Traffic Engineer pursuant to Section 17.94.120.

(Prior planning code § 6670)

17.94.120 Review and approval by City Traffic Engineer.

The design and layout of all on-street parking spaces and off-street parking facilities required by the S-12 Zone regulations, including maneuvering aisles, driveways, driveway

openings, and other related features, shall be subject to review and approval by the City Traffic Engineer. He or she shall ensure that the maximum feasible number of on-street parking spaces has been provided, that adequate ingress to and egress from each required off-street parking space is provided for a vehicle of the appropriate size, and that ingress to and egress from the off-street parking facility is possible with minimal disruption of traffic on the adjacent street. In his or her review, he or she shall consider the structural requirements of the facility; the length of the driveway and distance from parking spaces to the adjacent street; any loading berths or other vehicular activities served by the driveway; the average daily traffic, lane widths, and other pertinent characteristics of the adjacent street; and any other relevant factors. Notwithstanding the requirements of Sections 17.94.060 through 17.94.100, he or she may require such modifications to the design and layout of such on-street parking spaces and off-street parking facilities as in his or her judgment are necessary to ensure the safe and efficient operation of such spaces and facilities.

(Prior planning code § 6672)

17.94.130 Exceptions, variances, and appeals.

A. Exceptions Within Street Right-of-Way. Exceptions-from the provisions of the S-12 Zone regulations pertaining to required on-street parking, driveways, driveway openings, and any other features located within the street right-of-way shall be considered by the City Traffic Engineer. The decision of the City Traffic Engineer may be appealed to the Driveway Appeals Board. The decision of the Driveway Appeals Board may be appealed to the Planning Commission, whose decision shall be final, pursuant to the procedures set forth in Sections 12.04.300 and 12.04.310 of the Oakland Municipal Code.

B. Variances Outside Street Right-of-Way. Variances from the provisions of the S-12 Zone pertaining to required off-street parking spaces, maneuvering aisles, driveways, and other features located outside the street right-of-way shall be considered pursuant to the variance procedure in Chapter 17.148 of the zoning regulations.

C. Appeal of Determination of City Traffic Engineer and/or Director of City Planning. In situations where the City Traffic Engineer and/or Director of City Planning makes a determination or imposes a requirement pursuant to the S-12 Zone regulations, an appeal of such determination or requirement shall be considered pursuant to Subsection A. and/or B. of this Section as appropriate.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 6674)

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, changed the title of Section 17.94.130 from "Variances and appeals" to "Exceptions, variances and appeals." The historical notation has been preserved for reference purposes.

Chapter 17.96 RESERVED [36]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.96, §§ 17.96.010—17.96.090 in its entirety, which pertained to S-13 mixed-use development combining zone regulations and derived from the prior planning code, §§ 6700—6702, 6704, 6706, 6715—6717, 6720; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. (Back)

Chapter 17.97 S-15 TRANSIT-ORIENTED DEVELOPMENT ZONES REGULATIONS

Sections:

17.97.010 Title, purpose, and applicability.

17.97.020 Required design review process.

17.97.030 Special regulations applying to mixed-use developments on Bay Area Rapid Transit (BART) stations on sites with one acre or more land area.

17.97.040 Permitted and conditionally permitted activities.

17.15.050 Permitted and conditionally permitted facilities.

17.97.080 Special regulations applying to certain Commercial and Industrial Activities.

17.97.085 Reserved.

17.97.090 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity.

17.97.100 Use permit criteria.

17.97.110 Limitations on Signs, marquees, awnings.

17.97.120 Minimum lot area, width, and frontage.

17.97.130 Height, floor area ratio (FAR), density, and open space.

17.97.140, 17.97.150 Reserved.

17.97.160 Minimum yards and courts.

17.97.170 Reserved.

17.97.180 Buffering and landscaping.

17.97.190 Special regulations for Mini-Lot Developments.

17.97.200 Special regulations for large-scale developments.

17.97.210 Other zoning provisions.

17.97.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the S-15 Transit-Oriented Development Zones Regulations. The Transit-Oriented Development (S-15) Zones are intended to create, preserve and enhance areas devoted primarily to serve multiple nodes of transportation and to feature high-density residential, commercial, and mixed-use developments to encourage a balance of pedestrian-oriented activities, transit opportunities, and concentrated development; and encourage a safe and pleasant pedestrian environment near transit stations by allowing a mixture of Residential, Civic, Commercial, and Light Industrial Activities, allowing for amenities such as benches, kiosks, lighting, and outdoor cafes; and by limiting conflicts between vehicles and pedestrians, and is typically appropriate around transit centers such as Bay Area Rapid

Transit (BART) stations, AC Transit centers, and other transportation nodes. These regulations shall apply in the S-15 Zones.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11892 § 4 (part), 1996: prior planning code § 6850)

17.97.020 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

(Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12606 Att. A (part), 2004: Ord. 11904 § 5.62 (part), 1996: Ord. 11892 § 4 (part), 1996: prior planning code § 6851)

17.97.030 Special regulations applying to mixed-use developments on Bay Area Rapid Transit (BART) stations on sites with one acre or more land area.

No mixed-use developments that include Bay Area Rapid Transit (BART) stations located on sites with one (1) acre or more land area shall be permitted except upon the granting of a conditional use permit pursuant to Section 17.97.100 and the conditional use permit procedure in Chapter 17.134 or upon the granting of a Planned Unit Development permit pursuant to Chapters 17.140 and 17.142, and shall be subject to the following special regulations:

A. Intermodal Activities and Pedestrian Plaza. Developments should incorporate multiple forms of public transportation and a pedestrian plaza.

B. Professional Design. The application shall utilize the following professionals in the design process for the development:

   1. An architect licensed by the state of California; and

   2. A landscape architect licensed by the state of California, or an urban planner holding or capable of holding membership in the American Institute of Certified Planners.

C. Undergrounding of Utilities. All electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities shall be placed underground by the developer as required by the city. Electric and telephone facilities shall be installed in accordance with standard specifications of the serving utilities. Street lighting and fire alarm facilities shall be installed in accordance with standard specifications of the Electrical Department.

D. Performance Bonds. The City Planning Commission or, on appeal, the City Council may, as a condition of approval of any said development, require a cash bond or surety bond for the completion of all or specified parts of the development deemed to be essential to the achievement of the purposes set forth in Section 17.97.010. The bond shall be in a form approved by the City Attorney, in a sum of one hundred fifty percent (150%) of the estimated cost of the work, and conditioned upon the faithful performance of the work specified within the time specified. This requirement shall not

apply if evidence is provided to the city which indicates that alternative bonding or other assurances have been secured by the Bay Area Rapid Transit District.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11892 § 4 (part), 1996: prior planning code § 6852)

17.97.040 Permitted and conditionally permitted activities.

Table 17.97.01 lists the permitted, conditionally permitted, and prohibited activities in the S-15 Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.97.01: Permitted and Conditionally Permitted Activities

Activities	Zone		Additional Regulations
	S-15	**S-15W**	
Residential Activities			
Permanent	P	P	
Residential Care	P(L1)	P(L1)	17.103.010
Supportive Housing	P	P	
Transitional Housing	P	P	
Emergency Shelter	—	—	17.103.010
Semi-Transient	—	—	
Bed and Breakfast	—	—	17.10.125
Civic Activities			
Essential Service	P(L2)	P(L2)	
Limited Child-Care Activities	P	P	
Community Assembly	P	P	
Recreational Assembly	P	P	
Community Education	P	P	
Nonassembly Cultural	P	P	
Administrative	P	P	

Activities	Zone		Additional Regulations
	S-15	**S-15W**	
Health Care	P	P	
Special Health Care	—	—	17.103.020
Utility and Vehicular	C	C	
Extensive Impact	C	C	
Commercial Activities			
General Food Sales	P	P	
Full Service Restaurants	P	P	
Limited Service Restaurant and Cafe	P	P	
Fast-Food Restaurant	C	C	17.103.030 and 8.09
Convenience Market	C	C	17.103.030
Alcoholic Beverage Sales	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	C	C	
Medical Service	P	P	
General Retail Sales	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	
Consumer Service	P	P	17.102.170 and 17.102.450
Consultative and Financial Service	P	P	
Check Cashier and Check Cashing	—	—	
Consumer Cleaning and Repair Service	C	C	
Consumer Dry Cleaning Plant	C	C	
Group Assembly	P	P	
Personal Instruction and Improvement Services	P	P	
Administrative	P	P	
Business, Communication, and Media Services	P	P	
Broadcasting and Recording Services	P	P	
Research Service	—	C	
General Wholesale Sales	—	C	
Transient Habitation	C	C	17.103.050
Building Material Sales	—	—	

Activities	Zone		Additional Regulations
	S-15	**S-15W**	
Automobile and Other Light Vehicle Sales and Rental	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	
Taxi and Light Fleet-Based Services	—	—	
Automotive Fee Parking	C	C	
Animal Boarding	C	C	
Animal Care	C	C	
Undertaking Service	—	—	
Industrial Activities			
Custom Manufacturing	C	P	
Light Manufacturing	—	C	
General Manufacturing	—	—	
Heavy/High Impact	—	—	
Research and Development	—	C	
Construction Operations	—	—	
Warehousing, Storage, and Distribution-Related			
A. General Warehousing, Storage and Distribution	—	—	
B. General Outdoor Storage	—	—	
C. Self- or Mini-Storage	—	—	
D. Container Storage	—	—	
E. Salvage/Junk Yards	—	—	
Regional Freight Transportation	—	—	
Trucking and Truck-Related	—	—	
Recycling and Waste-Related	—	—	
A. Satellite Recycling Collection Centers	—	—	
B. Primary Recycling Collection Centers	—	—	17.103.060
Hazardous Materials Production, Storage, and Waste Management-Related	—	—	
Agriculture and Extractive Activities			
Limited Agriculture	P(L3)	P(L3)	

Activities	Zone		Additional Regulations
	S-15	**S-15W**	
Extensive Agriculture	C(L4)	C(L4)	
Plant Nursery	—	—	
Mining and Quarrying	—	—	
Accessory off-street parking serving prohibited activities	—	—	17.116.075
Activities that are listed as prohibited but are permitted or conditionally permitted on nearby lots in an adjacent zone	C	C	17.102.110

Limitations on Table 17.97.01:

L1. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. Community Gardens are permitted outright if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. The cultivation of animals, animal products and/or livestock production, except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L3. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure).

L4. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these activities must meet the use permit criteria in Section 17.97.100.

17.97.050 Permitted and conditionally permitted facilities.

Table 17.97.02 lists the permitted, conditionally permitted, and prohibited facilities in the S-15 Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the table.

"—" designates facilities that are prohibited.

Table 17.97.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones		Additional Regulations
	S-15	**S-15W**	
Residential Facilities			
One-Family Dwelling	C	(L2)	
One-Family Dwelling with Secondary Unit	—(L3)	—(L3)	17.103.080
Two-Family Dwelling	C	C	
Multifamily Dwelling	P	P	
Rooming House	—	C	
Mobile Home	—	—	
Nonresidential Facilities			
Enclosed Nonresidential	P	P	
Open Nonresidential	C(L1)	C(L1)	
Sidewalk Cafe	P	P	17.103.090
Drive-In Nonresidential	—	—	
Drive-Through Nonresidential	—	—	
Telecommunications Facilities			
Micro Telecommunications	P (except when a Major Conditional Use Permit is required by Section 17.128.025)	C	17.128
Mini Telecommunications	P (except when a Major Conditional Use Permit is required by Section 17.128.025)	C	17.128
Macro Telecommunications	C	C	17.128
Monopole Telecommunications	C	—	17.128
Tower Telecommunications	—	—	17.128
Sign Facilities			

Facilities	Zones		Additional Regulations
	S-15	**S-15W**	
Residential Signs	P	P	17.104
Special Signs	P	P	17.104
Development Signs	P	P	17.104
Realty Signs	P	P	17.104
Civic Signs	P	P	17.104
Business Signs	P	P	17.104
Advertising Signs	—	—	17.104

Limitations on Table 17.97.02:

L1. No Conditional Use Permit (CUP) is required for Open Nonresidential Facilities to accommodate Civic Activities, Limited Agriculture, seasonal sales, or special events.

L2. See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities.

L3. A Secondary Unit that meets all requirements set forth in Section 17.103.080 may be permitted in conjunction with an existing One-Family Dwelling.

17.97.080 Special regulations applying to certain Commercial and Industrial Activities.

A. Fast-Food Restaurants. Convenience Markets, and Certain Establishments Selling Alcoholic Beverages. See Section 17.103.030.

B. Industrial Activities. All accessory Industrial Activities, as defined in Section 17.10.040.F, shall be conducted entirely within an enclosed facility.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11892 § 4 (part), 1996: prior planning code § 6858)

17.97.085 Reserved.

Editor's note—

Ord. No. 13060, § 2(Exh. A), adopted March 1, 2011, repealed the former Section 17.97.085 in its entirety, which pertained to restrictions on telecommunications facilities and derived from Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010.

17.97.090 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.

See Sections 17.97.100 and 17.102.230.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11892 § 4 (part), 1996: prior planning code § 6859)

17.97.100 Use permit criteria.

In the S-15 Zones, a conditional use permit for any activity or facility listed in Sections 17.97.030, 17.97.040, 17.97.050, and 17.97.200, may 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 proposal will be of a quality and character which harmonizes with and serves to protect the value of private and public investment in the area;

B. That the proposal will encourage an appropriate mixture of Residential and/or Commercial Activities in a manner which promotes and enhances use of multiple modes of transportation;

C. That the proposal is designed to provide a safe and pleasant pedestrian environment;

D. That no front yard parking, loading area, or driveway shall connect or abut directly with the principal commercial street unless the determination can be made:

   1. That vehicular access cannot reasonably be provided from a different street or other way;

   2. That every reasonable effort has been made to share means of vehicular access with abutting properties;

   3. That the proposal is enclosed or screened from view of the abutting principal street by the measures required in Section 17.110.040B.

E. That the amount of off-street parking, if any, provided in excess of this code will not contribute significantly to an increased orientation of the area to automobile or truck movement.

F. In addition to the foregoing criteria and any other applicable requirements, auto fee parking within this zone shall be subject to the following use permit criteria:

   1. Auto fee parking shall be part of a larger development that contains a significant amount of commercial and/or residential facilities;

   2. Auto fee parking may only be contained in a structured parking facility of at least three stories that replaces an existing at grade parking facility;

   3. The new parking structure shall represent no more than a seventy-five percent (75%) increase of existing parking at the site;

   4. Auto fee parking at the site shall be specifically designated by a city sponsored plan or study designed to promote a transit oriented district as defined by the general plan;

   5. The facility or facilities containing the residential and/or commercial activities shall be adjacent to the principal street(s) and the auto fee parking shall be behind and

substantially visually obstructed from the principal Street(s) by the residential and/or commercial facility or facilities; and

6. The project shall be consistent in all significant respects with the general plan's goals, objectives, and policies that promote transit oriented development and districts.

For purposes of Subsection 17.97.100(F), "principal street" means the street or streets on which the development is most primarily oriented and that is appropriately designated in the general plan to accommodate the amount of trips proposed. On an interior lot, the principal street shall be the street in front of the development. On a corner lot, the principal streets shall be both the streets adjacent to the development. On a lot that has frontage on three (3) or more streets, at least two (2) streets shall be designated as principal streets.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12561 § 3 (part), 2004: Ord. 11892 § 4 (part), 1996: prior planning code § 6860)

17.97.110 Limitations on Signs, marquees, awnings.

A. General Limitations. All Signs shall be subject to the applicable limitations set forth in Chapter 17.104

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12606 An. A (part), 2004: Ord. 11892 § 4 (part), 1996: prior planning code § 6863)

17.97.120 Minimum lot area, width, and frontage.

Every lot containing a Residential Facility shall have a minimum lot area of four thousand (4,000) square feet and a minimum lot width mean of twenty-five (25) feet, except as a lesser area or width is allowed by Section 17.106.010. No minimum lot area or lot width is prescribed for any lot which does not contain a Residential Facility. Every lot shall have a minimum frontage of twenty-five (25) feet upon a street, except as this requirement is modified by Section 17.106.020.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11892 § 4 (part), 1996: prior planning code § 6864)

17.97.130 Height, floor area ratio (FAR), density, and open space.

Table 17.97.01 below prescribes height, FAR, density, and open space standards associated with the S-15 and S-15W Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table. "N/A" designates the regulation is not applicable to the specified Height Area.

Table 17.97.01 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations

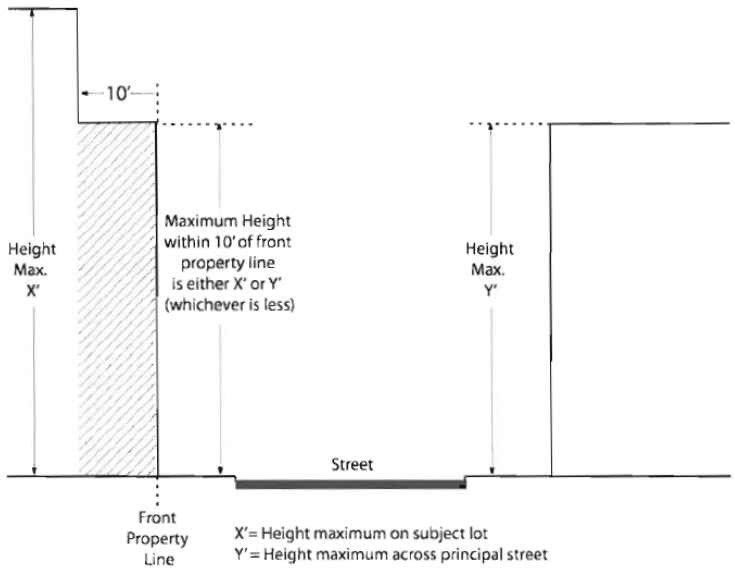
Regulation	Height Area										Additional Regulations
	35	**45**	**55**	**60**	**75**	**90**	**100**	**120**	**140**	**160**	
Maximum Height	35 ft.	45 ft.	55 ft.	60 ft.	75 ft.	90 ft.	100 ft.	120 ft.	140 ft.	160 ft.	1, 2
Height Minimum											

Permitted height minimum	N/A	N/A	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	3
Conditionally permitted height minimum	N/A	N/A	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	3
Maximum Residential Density (square feet of lot area required per dwelling unit)											
Regular units	550	450	375	375	275	225	225	225	225	225	4, 5
Rooming units	275	225	185	185	135	110	110	110	110	110	4, 5
Maximum Nonresidential FAR	2.0	2.5	3.0	3.0	4.0	4.5	5.0	5.0	5.0	5.0	4, 5
Maximum number of stories (not including underground construction)	3	4	5	5	7	8	9	11	13	15	
Minimum Usable Open Space											
Group usable open space per regular unit	150	150	150	150	100	100	75	75	75	75	6
Group usable open space per regular unit when private open space substituted	30	30	30	30	20	20	15	15	15	15	6
Group usable open space per rooming unit	75	75	75	75	50	50	38	38	38	38	6
Group usable open space per rooming unit when private open space is substituted	15	15	15	15	10	10	8	8	8	8	6

Additional Regulations for Table 17.97.01:

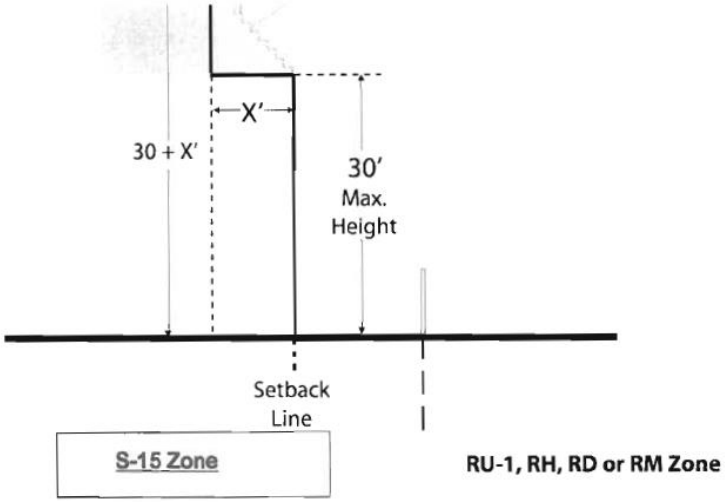
1. The maximum height within ten (10) feet of the front property line is either the height limit on the subject lot shown in the above table or the height maximum for the height area of the parcel directly across the principal street, whatever is less (see Illustration for Table 17.97.01 [Additional Regulation 1], below).

Illustration for Table 17.97.01 [Additional Regulation 1]
*for illustration purposes only



2. 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 an RH, RD, or RM Zone; this maximum height shall increase one (1) foot for every foot of distance away from this setback line (see Illustration for Table 17.35.04 [Additional Regulation 2], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

Illustration Table 17.35.04 [Additional Regulation 2]
*for illustration purposes only



3. This minimum height requirement only applies to the new construction of a principal building that is located on parcels adjacent to a street right-of-way that is one hundred (100) feet wide or more. Buildings constructed to accommodate Essential Service, Utility and Vehicular or Extensive Impact Civic Activities, or Automobile and Other Light Vehicle Sales and Rental, Automobile and Other Light Vehicle Gas Station and Servicing, or Automobile and Other Light

Vehicle Repair and Cleaning Commercial Activities may be exempted from the height minimum regulation by the Planning Director. The allowed projections into the height limits contained in Section 17.108.030 are not counted towards the height minimum.

4. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one (1) Primary Unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

5. No portion of lot area used to meet the residential density requirements shall be used as a basis for computing the maximum nonresidential FAR unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.

6. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling unit. All usable open space shall meet the standards contained in Chapter 17.126.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011)

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed and reenacted Section 17.97.130 in its entirety to read as herein set out. Formerly, Section 17.97.130 pertained to maximum residential density and derived from the prior planning code, § 6865; Ord. No. 11892, § 4, adopted 1996, and Ord. No. 12776, § 3(Exh. A), adopted 2006.

17.97.140, 17.97.150 Reserved.

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Sections 17.97.140 and 17.97.150 in their entirety, which pertained to maximum nonresidential floor area ratio and maximum height, respectively, and derived from the prior planning code, §§ 6867, 6869; Ord. No. 11892, § 4, adopted 1996; Ord. No. 11904, § 5.90, adopted 1996, and Ord. No. 12776, § 3(Exh. A), adopted 2006.

17.97.160 Minimum yards and courts.

No yards or courts are generally required except as indicated below. The following minimum yards and courts shall be provided unobstructed except for the accessory structures or other facilities allowed therein by Section 17.108.130:

A. Front Yard. A front yard shall be provided, as prescribed in Section 17.108.040, in certain situations where part of the frontage on the same side of a block is in a Residential Zone.

B. Side Yard—Street Side or Corner Lot. A side yard shall be provided, as prescribed in Section 17.108.070, on the street side of a corner lot in certain situations where a lot to the rear of the corner is in a Residential Zone.

C. Side Yard—Interior Lot Line.

1. A side yard shall be provided along an interior side lot line, when and as prescribed in Section 17.108.080, for Residential Facilities.

2. A side yard shall be provided, as prescribed in Section 17.108.090, along an interior side lot line lying along a boundary of any of certain other zones.

D. Rear Yard.

1. A rear yard with a minimum depth of ten (10) feet shall be provided for all Residential Facilities, except as a lesser depth is allowed by Section 17.108.110.

2. A rear yard shall be provided, as prescribed in Section 17.108.100, along a boundary of any of certain other zones.

E. Courts. On each lot containing a Residential Facility, courts shall be provided when and as required by Section 17.108.120.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. 11892 § 4 (part), 1996: prior planning code § 6870)

17.97.170 Reserved.

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Section 17.97.170 in its entirety, which pertained to minimum usable open space and derived from the prior planning code, § 6871; Ord. No. 11892, § 4, adopted 1996, and Ord. No. 12776, § 3(Exh. A), adopted 2006.

17.97.180 Buffering and landscaping.

A. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, and storage areas; control of artificial illumination; and other matters specified therein.

B. Landscaping. All uses shall be subject to the applicable requirements of the standards for required landscaping and screening, Chapter 17.124, with respect to maintenance, required materials and capacity, combination materials, and heights; and other matters specified therein.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11892 § 4 (part), 1996: prior planning code § 6872)

17.97.190 Special regulations for Mini-Lot Developments.

In Mini-Lot Developments, certain of the regulations otherwise applying to individual lots in the S-15 Zones may be waived or modified when and as prescribed in Chapter 17.142.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11892 § 4 (part), 1996: prior planning code § 6873)

17.97.200 Special regulations for large-scale developments.

No development which involves more than one hundred thousand (100,000) square feet of new floor area shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and Section 17.97.100, or upon the granting of a Planned Unit Development approval pursuant to Chapters 17.140 and 17.142.

(Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11892 § 4 (part), 1996: prior planning code § 6875)

17.97.210 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. See Section 17.112.060 for home occupation regulations specific to the West Oakland Specific Plan Area.

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 S-15 Zones.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12884 § 2 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: amended during 1997 codification; prior code § 6876)

Chapter 17.98 RESERVED [37]

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Chapter 17.98, §§ 17.98.010—17.98.120 in its entirety, which pertained to S-16 industrial-residential transition combining zone regulations and derived from Ord. No. 12289, § 3, adopted 2000; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12899, § 4(Exh. A), adopted 2008; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010; Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010, and Ord. No. 13042, § 4(Exh. A), adopted October 19, 2010. (Back)

Chapter 17.99 S-17 DOWNTOWN RESIDENTIAL OPEN SPACE COMBINING ZONE REGULATIONS

Sections:

17.99.010 Title, purpose and applicability.

17.99.020 Zones with which the S-17 Zone may be combined.

17.99.030 Definitions.

17.99.040 Permitted categories of usable open space.

17.99.050 Usable open space standards for residential development.

17.99.060 Landscaping requirements.

17.99.070 Conformance with design guidelines.

17.99.010 Title, purpose and applicability.

The provisions of this Chapter shall be known as the S-17 Downtown Residential Open Space Combining Zone Regulations. The Downtown Residential Open Space Combining (S-17) Zone is intended to provide open space standards for residential development that are appropriate to the unique density, urban character and historic character of the Central Business District. These regulations shall apply in the S-17 Zone, and are supplementary to the regulations applying in the zones with which the S-17 Zone is combined.

(Ord. 12343 § 2 (part), 2001)

17.99.020 Zones with which the S-17 Zone may be combined.

The S-17 Zone may be combined with the portion of any zoning district that is located within the General Plan-designated Central Business District.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12343 § 2 (part), 2001)

17.99.030 Definitions.

As used in this Chapter, the following words will have the meaning set forth unless the context clearly indicates otherwise:

Usable open space categories shall be defined as follows:

A. **Private Usable Open Space.** Private usable open space is accessible from a single unit and may be provided in a combination of recessed and projecting exterior spaces.

B. **Public Ground-Floor Plaza.** Public ground-floor plazas (plazas) are group usable open space located at street-level and adjacent to the building frontage. Plazas are publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving.

C. **Widened Sidewalk.** A widened sidewalk includes paving, landscaping and pedestrian amenities along the building frontage and within the property boundaries, and constitutes group usable open space. A widened sidewalk shall involve either a land dedication or easement to allow public access at all times and a seamless connection to the public right-of-way.

D. **Rooftop Open Space.** Rooftop open space, a type of group usable open space, includes gardens, decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants.

E. **Courtyard.** A courtyard is a type of group usable open space that can be located anywhere within the subject property.

F. **Off-site Open Space.** Privately owned and maintained group usable or public open space at ground-floor or podium level within one thousand (1,000) feet of a residential development, intended to fulfill the usable open space requirement of said residential development, only.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12343 § 2 (part), 2001)

17.99.040 Permitted categories of usable open space.

Residential development in the S-17 Downtown Residential Open Space Combining Zone shall provide a combination of the following usable open space categories, as defined in Section 17.99.030, in order to satisfy the standards established in Section 17.99.050:

A. Private usable open space;

B. Public ground-floor plaza;

C. Widened sidewalk;

D. Rooftop open space;

E. Courtyard; and

F. Off-site open space.

(Ord. 12343 § 2 (part), 2001)

17.99.050 Usable open space standards for residential development.

All required usable open space shall be permanently maintained and shall conform to the following standards:

A. **Area.** On each lot containing Residential Facilities with a total of two (2) or more living units, usable open space shall be provided for such facilities at a rate of seventy-five (75) square feet per standard unit, fifty (50) square feet per efficiency unit, and thirty-eight (38) square feet per rooming unit.

B. **Limitations.** Not more than twenty percent (20%) of the required area shall be provided in widened sidewalks.

C. **Size and Shape.** An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the dimensions shown in the following table:

Private Usable Open Space	10' (ground floor)
Public Ground-Floor Plaza	10'
Widened Sidewalk	10'*
Rooftop	15'
Courtyard	15'
Off-Site Open Space	5,000 square feet

* Measurement does not include width of existing sidewalk, and is additive to existing sidewalk.

When space is located on a roof, the area occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the above dimension.

D. **Openness.** There shall be no obstructions above the space except for devices to enhance its usability, such as pergola or awning structures. There shall be no obstructions over ground-level private usable open space except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level private usable open space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.

E. **Usability.** A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt or other serviceable, dust-free surfacing. Slope shall not exceed ten percent. Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected whenever necessary for space on a roof, but shall not be more than four feet high.

F. **Accessibility.** Usable open space, other than private usable open space and off-site open space, shall be accessible to all the living units on the lot. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room. Private usable open space may be located anywhere on the lot except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five (5) feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All private usable open space shall be adjacent to, and not more than four (4) feet above or below the floor level of, the living unit served. Private usable open space shall be accessible to only one living unit by a doorway to a habitable room or hallway.

G. **Enclosure.** Ground-level usable open space shall be screened from abutting lots, streets, alleys, and paths, from abutting private ways described in Section 17.106.020, and from other areas on the same lot by a building wall, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide, or by a solid or grille, lumber or masonry fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said Chapter. However, when such screening would impair a beneficial outward and open orientation or view, with no building located opposite and within fifty (50) feet form such required screening, as measured perpendicularly

therefrom in a horizontal plane, the above prescribed height may be reduced to three and one-half (3½) feet. Fences and walls shall not be constructed as to interfere with the access required by applicable fire prevention regulations.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12343 § 2 (part), 2001)

17.99.060 Landscaping requirements.

At least ten percent (10%) of usable open space area (with the exception of private usable open space) shall include landscaping enhancement as well as user amenities. Landscaping shall consist of permanent features, such as trees, shrubbery, decorative planting containers and coverings (mulch, gravel), fountains, boulders or artwork (sculptures, murals). User amenities shall include seating, decorative paving or playground structures.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12343 § 2 (part), 2001)

17.99.070 Conformance with design guidelines.

Usable open space areas shall be designed to be consistent with any design guidelines adopted for the affected zone.

(Ord. 12343 § 2 (part), 2001)

Chapter 17.100A S-19 HEALTH AND SAFETY PROTECTION COMBINING ZONE REGULATIONS [38]

Sections:

17.100A.010 Title, Purpose and Applicability.

17.100A.020 Definitions.

17.100A.030 Zones with which the S-19 Zone may be combined.

17.100A.040 Prohibited land uses.

17.100A.050 General standards.

17.100A.060 Regulations required by other agencies.

17.100A.010 Title, Purpose and Applicability.

The intent of the S-19 Health and Safety Protection Combining Zone is to promote the public health, safety and welfare by ensuring that activities which use hazardous material substances or store hazardous materials, hazardous waste, or explosives locate in appropriate locations and develop in such a manner as not to be a serious threat to the environment, or to public health, particularly to residents living adjacent to industrial areas where these materials are commonly used, produced or found.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A, 2008; Ord. 12875 § 2 (part), 2008)

17.100A.020 Definitions.

For the purposes of this regulation, the following definitions apply:

A. **Hazardous Material.** Hazardous material is defined as that which could exhibit one or more of the hazard characteristics defined in the California Fire Code (CFC), which generally means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment (H.S.C. §25503.5a).

B. **Hazardous Waste.** Hazardous waste is defined as any hazardous material whose intended original purpose is no longer applicable for its use, or a waste that meets federal or state criteria for ignitability, corrosivity, reactivity or toxicity, or is specifically listed by the federal or state law or regulations (40 C.F.R., part 240 et. seq.).

C. **Explosives.** Explosives are defined as chemicals that cause a sudden, almost instantaneous release of pressure, gas and heat when subjected to sudden shock, pressure, or high temperatures; or a material or chemical, other than a blasting agent, that is commonly used or intended to be used for the purpose of producing an explosive effect (29 C.F.R).

(Ord. 12899 § 4, Exh. A, 2008; Ord. 12875 § 2 (part), 2008)

17.100A.030 Zones with which the S-19 Zone may be combined.

A. The standards of the S-19 Combining Zone shall apply to the following zoning districts:

1. Housing and Business Mix (HBX) Zones;
2. D-CE-3 and D-CE-4 (Central Estuary District) Zones;
3. CIX-1 (Commercial Industrial Mix-1) Zone;
4. CIX-1A, CIX-1B, CIX-1C, and CIX-1D (West Oakland Plan Area Commercial Industrial Mix-1A, -1B, -1C, and -1D) Zones that are within the West Oakland District (defined for the purposes of this Chapter as all areas between Interstate 980 to the east, Interstate 880 to the south and west, and Interstate 580 to the north);
5. CIX-2 (Commercial Industrial Mix-2), IG (General Industrial), and IO (Industrial Office) zoning districts that are within three hundred (300) feet from any Residential, Open Space, or Institutional Zone boundary.

B. The standards of this combining zone shall apply to the following facility types:

1. All new Nonresidential Facilities or Activities;
2. Any Nonresidential Facility which has lost its legal non-conforming status;
3. Any existing facility or activity where the usable floor area is expanded by more than twenty percent (20%) after the effective date of the adoption of this Chapter;
4. Any alteration or expansion of a facility or activity, such that it requires a new Risk Management Plan or other Hazardous Materials Business Plan.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A, 2008; Ord. 12875 § 2 (part), 2008)

17.100A.040 Prohibited land uses.

The following land use activities are prohibited within the S-19 Health and Safety Protection Combining Zone:

A. Electroplating;

B. Hazardous Waste Management, Industrial/Transfer Storage; and Residuals Repositories;

C. Activities which involve manufacturing, storing, or use of explosives.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A, 2008; Ord. 12875 § 2 (part), 2008)

17.100A.050 General standards.

The following additional regulations shall apply within the S-19 Health and Safety Protection Combining Zone:

A. Storage and use of all hazardous materials and hazardous waste shall be reviewed and approved by the Fire Department prior to commencement of operation or any alteration of activity. A risk management plan may also be required, per the Certified Program Uniform Assistance (CUPA) Ordinance (O.M.C. Chapter 8.42).

B. No storage or use of hazardous materials and waste can be located within three hundred (300) feet of a Residential, Institutional or Open Space Zone without written approval or consent of the Fire Department.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A, 2008; Ord. 12875 § 2 (part), 2008)

17.100A.060 Regulations required by other agencies.

A. The following regulations may be required by the Fire Department, City of Oakland:

1. Process Hazard Analysis;
2. Risk Management Plan;
3. Local Hazardous Materials Business Plan.

B. In addition, the Fire Department may establish any of the following limitations:

1. Limitations on the location for storage or use of hazardous material;
2. Containment measures for storage or use of hazardous materials;
3. Limitations or prohibitions on the storage or use of specific hazardous materials; or specific processes that use or combine hazardous materials.

C. The foregoing shall not prevent compliance with other requirements that may be imposed under other federal, state or local rules, statutes, codes or regulations.

(Ord. 12899 § 4, Exh. A, 2008; Ord. 12875 § 2 (part), 2008)

FOOTNOTE(S):

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Editor's note— Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, changed the title of Chapter 17.100A from "S-19 health and safety protection overlay zone" to "S-19 health and safety protection combining zone regulations." (Back)

Chapter 17.100B S-20 HISTORIC PRESERVATION DISTRICT COMBINING ZONE REGULATIONS

Sections:

17.100B.010 Title, purpose, and applicability.

17.100B.020 Zones with which the S-20 Zone may be combined.

17.100B.030 Required design review process.

17.100B.050 Design review criteria.

17.100B.060, 17.100B.070 Reserved.

17.100B.080 Duty to keep in good repair.

17.100B.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the S-20 Historic Preservation District Combining Zone Regulations. The Historic Preservation District Combining (S-20) Zone is intended to preserve and enhance the cultural, educational, aesthetic, environmental, and economic value of structures, other physical facilities, sites, and areas of special importance due to historical association, basic architectural merit, the embodiment of a style or special type of construction, or other special character, interest, or value, and is typically appropriate to selected older locations in the city. The S-20 Zone is similar to the S-7 Preservation Combining Zone, but is designed for larger areas, often with a large number of residential properties that may not be individually eligible for landmark designation but which as a whole constitute a historic district. The S-20 Zone provides generally more expeditious review procedures than those provided in the S-7 Zone. These regulations shall apply in the S-20 Zone, and are supplementary to the provisions of Section 17.136.070 for designated landmarks and to the other regulations applying in the zones with which the S-20 Zone is combined; if a property is both a landmark and located in the S-20 Zone and is therefore subject to both landmark and S-20 regulations, the stricter regulations prevail.

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12899 § 4, Exh. A, 2008; Ord. 12872 § 4, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12513 Attach. A (part), 2003)

17.100B.020 Zones with which the S-20 Zone may be combined.

The S-20 Zone may be combined with any other zone.

(Ord. No. 12899 § 4, Exh. A, 2008; Ord. 12872 § 4, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12513 Attach. A (part), 2003)

17.100B.030 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 (see Section 17.09.040 for definition), Designated Historic Property, Potentially Designated Historic Property, 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 additional provisions in Sections 17.100B.050, 17.100B.060, and 17.100B.070, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

B. See Section 17.136.075 for design review criteria for the demolition or removal of Designated Historic Properties and Potentially Designated Historic Properties.

C. Landmarks Referral. If an application is for regular design review in the S-20 Zone, and the Director of City Planning determines that a proposed addition or alteration will have a significant effect on the property's character-defining elements that are visible from a street or other public area, the Director may, at his or her discretion, refer the project to the Landmarks Preservation Advisory Board for its recommendations. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. An addition or alteration is normally considered "visible from a street or other public area" if it affects a street face or public face of the facility or is otherwise located within the "critical design area," defined as the area within forty (40) feet of any street line, public alley, public path, park or other public area.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12899 § 4, Exh. A, 2008; Ord. 12872 § 4, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12513 Attach. A (part), 2003)

17.100B.050 Design review criteria.

In the S-20 Zone, proposals requiring Regular design review approval pursuant to Section 17.100B.030 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:

A. That the proposal will not substantially impair the visual, architectural, or historic value of the affected site or facility. Consideration shall be given to design, form, scale, color, materials, texture, lighting, detailing and ornamentation, landscaping, signs, and any other relevant design element or effect, and, where applicable, the relation of the above to the original design of the affected facility.

B. That the proposed development will not substantially impair the visual, architectural, or historic value of the total setting or character of the S-20 Historic Preservation Zone or of neighboring facilities. Consideration shall be given to the desired overall character of any such area or grouping of facilities, including all design elements or effects specified in Subsection (A) above; and

C. That the proposal conforms with the Design Guidelines for Landmarks and Preservation Districts as adopted by the City Planning Commission and, as applicable for certain federally-related projects, with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

(Ord. No. 12899 § 4, Exh. A, 2008; Ord. 12872 § 4, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12513 Attach. A (part), 2003)

17.100B.060, 17.100B.070 Reserved.

Editor's note—

Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010, repealed the former Sections 17.100B.060 and 17.100B.070 in their entirety, which pertained to the criteria for demolition or removal, and postponement of demolition or removal, respectively, and derived from Ord. No. 12513, Att. A(part), adopted in 2003; Ord. No. 12776, Exh. A (part), adopted in 2006; Ord. No. 12872, § 4, Exh. A (part), adopted in 2008; Ord. No. 12899, § 4, Exh. A, adopted in 2008.

17.100B.080 Duty to keep in good repair.

Except as otherwise authorized under Sections 17.100B.030 and 17.100B.070, the owner, lessee, or other person in actual charge of each structure in the S-20 Zone shall keep in good repair all of the exterior, as well as all interior portions whose maintenance is necessary to prevent deterioration and decay of the exterior.

(Ord. No. 12899 § 4, Exh. A, 2008; Ord. 12872 § 4, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12513 Attach. A (part), 2003)

Chapter 17.101A - D-WS WOOD STREET DISTRICT ZONE REGULATIONS

Sections:

17.101A.010 Title, purpose, and applicability.

17.101A.020 - Permitted and conditionally permitted activities.

17.101A.010 Title, purpose, and applicability.

A. The provisions of this Chapter (in combination with the separate Wood Street Zoning District document adopted by City Council as part of Ordinance 12673 C.M.S that prescribes the Zoning Regulations, Standards, and Guidelines for Development and Use of Property within the Wood Street Zoning District), shall be known as the D-WS Wood Street District Zone Regulations. The intent of the Wood Street District (D-WS) Zone is to create an active, pedestrian oriented, mixed-use, urban community in the area generally bounded by 10th Street, Wood Street, West Grand Avenue and Frontage Road/I-880.

B. The Zoning Regulations, Standards, and Guidelines for Development and Use of Property within the Wood Street Zoning District shall be as prescribed in the original Ordinance 12673 C.M.S, amending Ordinance 13093 C.M.S, all subsequent amending Ordinances adopted by City Council, and as amended in Section 17.101A.020 below. All such regulation shall apply to the area of the zoning maps with a D-WS designation.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101A.020 Permitted and conditionally permitted activities.

Table 17.101A.01 lists the permitted, conditionally permitted, and prohibited activities in the Development Areas of the D-WS Zone. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding Development Areas of the D-WS Zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding Development Areas of the D-WS Zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.101A.01: Permitted and Conditionally Permitted Activities

Activities	Development Areas of the D-WS Zone									Additional Regulations
	1	2	3	4	5	6	7	8	9	
Residential Activities										

Activities	Development Areas of the D-WS Zone									Additional Regulations
	1	2	3	4	5	6	7	8	9	
Permanent	P	P	P	P	—	P	P	P	—	
Residential Care	P(L1)	P(L1)	P(L1)	P(L1)	—	P(L1)	P(L1)	P(L1)	—	17.103.010
Supportive Housing	P	P	P	P	—	P	P	P	—	
Transitional Housing	P	P	P	P	—	P	P	P	—	
Emergency Shelter	—	—	—	—	—	—	—	—	—	17.103.010
Semi-Transient	—	—	—	—	—	—	—	—	—	
Bed and Breakfast										17.10.125
Civic Activities										
Essential Service	P(L13)	P(L13)	P(L13)	P(L13)	P(L13)	P(L13)	P(L13)	P(L13)	P(L13)	
Limited Child-Care	—	P	—	P	P	P	—	P	—	
Community Assembly	—	P(L2)	—	P(L2)	P(L2)	P(L2)	—	P(L2)	C(L12)	
Recreational Assembly	—	—	—	—	C	—	—	—	C(L12)	
Community Education	C	C	C	C	C	C	C	C	C	
Nonassembly Cultural	—	P	—	P	P	P	—	P	—	
Administrative	—	P(L3)	—	P(L3)	P	P(L3)	—	P	—	
Health Care	—	P(L3)	—	C	C	C	—	P	—	
Special Health Care	—	—	—	—	—	—	—	—	—	17.103.020
Utility and Vehicular	—	P(L4)	—	P(L4)	P(L4)	P(L3)	—	P(L4)	—	

Activities	Development Areas of the D-WS Zone									Additional Regulations
	1	2	3	4	5	6	7	8	9	
Extensive Impact	—	—	—	—	—	—	—	—	—	
Commercial Activities										
General Food Sales	—	P(L5)	—	P(L5)	P	P(L5)	—	P(L5)	—	
Full Service Restaurant	—	P	—	P	P	P	—	P	—	
Limited Service Restaurant and Cafe	—	P	—	P	P	P	—	P	—	
Fast Food Restaurant	—	—	—	C	C	C	—	C	—	17.103.030 and 8.09
Convenience Market	—	C(L6)	—	C(L6)	C(L6)	C(L6)	—	C(L6)	—	17.103.030
Alcoholic Beverage Sales	—	C(L7)	—	C(L7)	C(L7)	C(L7)	—	C(L7)	—	17.103.030 and 17.114.030
Mechanical or Electronic Games	—	—	—	—	—	—	—	—	—	
Medical Service	—	P(L8)	—	P(L8)	P(L8)	P(L8)	—	P(L8)	—	
General Retail Sales	—	P(L3)	—	P(L3)	P	P	—	P	—	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	—	—	—	—	
Consumer Service	—	P(L3)	—	P(L3)	P(L3)	P(L3)	—	P	—	
Consultative and Financial Service	—	P(L3)	—	P(L3)	P(L3)	P(L3)	—	P	—	

Activities	Development Areas of the D-WS Zone									Additional Regulations
	1	2	3	4	5	6	7	8	9	
Check Cashier and Check Cashing	—	—	—	—	—	—	—	—	—	17.103.040
Consumer Cleaning and Repair Service	—	P(L3)	—	P(L3)	P(L3)	P(L3)	—	P	—	
Consumer Dry Cleaning Plant	—	—	—	—	—	—	—	—	—	
Group Assembly	—	—	—	—	C	—	—	P	C(L12)	
Personal Instruction and Improvement Services	—	P(L3)	—	P(L3)	P(L3)	P(L3)	—	P	—	
Administrative	—	P(L3)	—	P(L3)	P	P	—	P	—	
Business, Communication, and Media Service	—	C	—	C	C	C	—	P	—	
Broadcasting and Recording Service	—	C	—	C	C	C	—	P	—	
Research Service	—	C(L11)	—	—	—	—	—	P	—	
General Wholesale Sales	—	C(L11)	—	—	—	—	—	P	—	
Transient Habitation	—	—	—	—	—	—	—	P	—	17.103.050
Building Material Sales	—	P(L10)	—	P(L10)	P(L10)	P(L10)	—	P	—	
Automobile and Other Light Vehicle	—	—	—	—	—	—	—	—	—	

Activities	Development Areas of the D-WS Zone									Additional Regulations
	1	2	3	4	5	6	7	8	9	
Sales and Rental										
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	—	—	—	—	—	—	
Automotive and Other Light Vehicle Repair and Cleaning	—	—	—	—	—	—	—	—	—	
Taxi and Light Fleet-Based Services	—	—	—	—	—	—	—	—	—	
Automotive Fee Parking	—	—	—	—	—	—	—	—	—	
Animal Care	—	—	—	—	—	—	—	—	—	
Animal Boarding	—	—	—	—	—	—	—	—	—	
Undertaking Service	—	—	—	—	—	—	—	—	—	
Industrial Activities										
Custom Manufacturing	—	P	—	C	C	C	—	P	—	
Light Manufacturing	—	C	—	—	C	—	—	C	—	
General Manufacturing	—	—	—	—	—	—	—	C	—	
Heavy/High Impact Manufacturing	—	—	—	—	—	—	—	—	—	
Research and Development	—	C(L11)	—	—	C	—	—	—	—	
Construction	—	P(L10)	—	P(L10)	P(L10)	P(L10)	—	P(L10)	—	

Activities	Development Areas of the D-WS Zone									Additional Regulations
	1	2	3	4	5	6	7	8	9	
Operations										
Warehousing, Storage and Distribution-Related:										
A. General Warehousing, Storage and Distribution	—	C(L11)	—	—	—	—	—	—	—	
B. General Outdoor Storage	—	—	—	—	—	—	—	—	—	
C. Self- or Mini-Storage	—	—	—	—	—	—	—	—	—	
D. Container Storage	—	—	—	—	—	—	—	—	—	
E. Automotive Salvage and Junk Yards	—	—	—	—	—	—	—	—	—	
Regional Freight Transportation:	—	—	—	—	—	—	—	—	—	
Trucking and Truck-Related:	—	—	—	—	—	—	—	—	—	
Recycling and Waste-Related:										
A. Satellite Recycling Collection Centers	—	—	—	—	—	—	—	—	—	
B. Primary Recycling Collection Centers	—	—	—	—	—	—	—	—	—	
Hazardous Materials Production,	—	—	—	—	—	—	—	—	—	

Activities	Development Areas of the D-WS Zone									Additional Regulations
	1	2	3	4	5	6	7	8	9	
Storage & and Waste Management-Related										
Agricultural and Extractive Activities										
Plant Nursery	—	—	—	—	—	—	—	—	—	
Limited Agriculture	C(L14)	C(L14)	C(L14)	C(L14)	C(L14)	C(L14)	C(L14)	C(L14)	C(L14)	
Extensive Agriculture	C(L15)	C(L15)	C(L15)	C(L15)	C(L15)	C(L15)	C(L15)	C(L15)	C(L15)	
Mining and Quarrying Extractive	—	—	—	—	—	—	—	—	—	
Accessory off-street parking serving prohibited activities	—	—	—	—	—	—	—	—	—	17.116.175
Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof	—	—	—	—	—	—	—	—	—	17.102.110

Limitations on Table 17.101A.01:

L1. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. Only the following activities are permitted: 1) places of worship, churches, temples, mosques, and synagogues with a total floor area of three thousand (3,000) square feet or less; and 2) public, parochial, private and non-profit clubs and lodges, meeting halls, recreation centers, and gymnasiums with a floor area of five thousand (5,000) square feet or less.

L3. Activities with a total floor area greater than three thousand (3,000) square feet require the granting of a conditional use permit (see Chapter 17.134), and activities with a floor area over five thousand (5,000) square feet are prohibited.

L4. Only police substations and neighborhood-servicing post offices that have a total floor area not exceeding one thousand (1,000) square feet are permitted. Other Utility and Vehicular Civic Activities are prohibited.

L5. Grocery markets shall be: 1) limited to a maximum floor area of three thousand (3,000) square feet; and 2) only be open between 6:00 AM and 10:00PM.

L6. Convenience markets shall not be greater than five thousand (5,000) square feet.

L7. Alcoholic Beverage Sales is limited to sale of beer and wine.

L8. Floor area devoted to Medical Service Commercial Activities is limited to a maximum two thousand five hundred (2,500) square feet.

L9. Retail Business supply stores shall be: 1) limited to office and art supply stores; and 2) limited to a maximum of three thousand (3,000) square feet.

L10. Activities with a total floor area greater than five thousand (5,000) square feet require the granting of a conditional use permit (see Chapter 17.134) and activities with a floor area over ten thousand (10,000) square feet are prohibited except for Development Area 2B (the icehouse property). This activity is limited to neighborhood-serving construction product sales and services (Note: Hardware Stores are a General Retail Commercial Activity, refer to L3)

L11. Only applies to the “Icehouse” building located in Development Area 2B.

L12. Only Passive Recreation is allowed. Active Recreation and Overnight Camping are not allowed.

L13. Community Gardens and Botanical Gardens are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L14. Limited Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;

2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and

3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

L15. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

Chapter 17.101B D-OTN OAK TO NINTH DISTRICT ZONE REGULATIONS

Sections:

17.101B.010 Title, purpose, and applicability.

17.101B.020 Permitted and conditionally permitted activities.

17.101B.010 Title, purpose, and applicability.

A. The provisions of this Chapter shall be known as the D-OTN Oak to Ninth District Zone Regulations.

B. The "Zoning Regulations and Standards for Development and Use of Property within the Planned Waterfront Zoning District (PWD-4) Oak to Ninth Mixed Use Development" which are attached to Ordinance 12758 C.M.S, and as amended in Section 17.101B.020, shall apply to the area designated in Ordinance 12759 C.M.S.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101B.020 Permitted and conditionally permitted activities.

Table 17.101B.01 lists the permitted, conditionally permitted, and prohibited activities in the D-OTN and OS-RSP Zones within the Oak to Ninth/Brooklyn Basin Mixed Use Development. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.101B.01: Permitted and Conditionally Permitted Activities

Activities	Zones		Additional Regulations
	D-OTN	OS-RSP	
Residential Activities			
Permanent	P	C	
Residential Care	P(L3)	C	17.103.010
Supportive Housing	P	C	
Transitional Housing	P	C	
Emergency Shelter	—	—	17.103.010

Activities	Zones		Additional Regulations
	D-OTN	OS-RSP	
Semi-Transient	C	—	
Bed and Breakfast	—	—	17.10.125
Civic Activities			
Essential Service	P	C	
Limited Child-Care Activities	P	C	
Community Assembly	P	C	
Recreational Assembly	P	C	
Community Education	P	C	
Nonassembly Cultural	P	C	
Administrative	P	C	
Health Care	C	—	
Special Health Care	C	—	17.103.020
Utility and Vehicular	C	—	
Extensive Impact	C	C	
A. Marinas	—	C	
Commercial Activities			
General Food Sales	P	—	
Full Service Restaurants	P	C	
Limited Service Restaurant and Cafe	P	C	
Fast-Food Restaurant	C	—	17.103.030 and 8.09
A. Vehicular Food Vending	—	—	
Convenience Market	P	—	17.103.030
Alcoholic Beverage Sales	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	C	—	
Medical Service	C	—	
General Retail Sales	P	—	
Large-Scale Combined Retail and Grocery Sales	—	—	
Consumer Service	P	—	17.102.170 and 17.102.450
Consultative and Financial Service	P	—	

Activities	Zones		Additional Regulations
	D-OTN	OS-RSP	
Check Cashier and Check Cashing	—	—	
Consumer Cleaning and Repair Service	P	—	
Consumer Dry Cleaning Plant	C	—	
Group Assembly	C	—	
Personal Instruction and Improvement Services	P	—	
Administrative	P	—	
Business, Communication, and Media Services	P	—	
Broadcasting and Recording Services	P	—	
Research Service	P	—	
General Wholesale Sales	—	—	
Transient Habitation	C	—	17.103.050
Building Material Sales	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	
Taxi and Light Fleet-Based Services	—	—	
Automotive Fee Parking	C	—	
Animal Boarding	—	—	
Animal Care	—	C	
Undertaking Service	—	—	
Industrial Activities			
Custom Manufacturing	—	—	
Light Manufacturing	—	—	
General Manufacturing	—	—	
Heavy/High Impact	—	—	
Research and Development	—	—	
Construction Operations	—	—	
Warehousing, Storage, and Distribution-Related			
A. General Warehousing, Storage and Distribution	—	—	

Activities	Zones		Additional Regulations
	D-OTN	OS-RSP	
B. General Outdoor Storage	—	—	
C. Self- or Mini-Storage	—	—	
D. Container Storage	—	—	
E. Salvage/Junk Yards	—	—	
Regional Freight Transportation	—	—	
Trucking and Truck-Related	—	—	
Recycling and Waste-Related	—	—	
A. Satellite Recycling Collection Centers	—	—	
B. Primary Recycling Collection Centers	—	—	17.103.060
Hazardous Materials Production, Storage, and Waste Management-Related	—	—	
Agriculture and Extractive Activities			
Limited Agriculture	C(L1)	—	
Extensive Agriculture	C(L2)	—	
Plant Nursery	—	—	
Mining and Quarrying	—	—	
Accessory off-street parking serving prohibited activities	—	—	17.116.075
Activities that are listed as prohibited but are permitted or conditionally permitted on nearby lots in an adjacent zone	C	C	17.102.110

Limitations on Table 17.101B.01:

L1. Limited Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;

2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and

3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

L2. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

L3. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

Chapter 17.101C D-BV BROADWAY VALDEZ DISTRICT COMMERCIAL ZONES REGULATIONS [39]

Sections:

17.101C.010 - Title, intent, and description.

17.101C.020 - Required design review process.

17.101C.030 - Permitted and conditionally permitted activities.

17.101C.040 - Permitted and conditionally permitted facilities.

17.101C.050 - Property development standards.

17.101C.055 - Micro Living Quarters

17.101C.060 - Special regulations for Mini-Lot and Planned Unit Developments.

17.101C.070 - Other zoning provisions.

17.101C.010 - Title, intent, and description.

A. Title and Intent. The intent of the D-BV Broadway Valdez District Commercial Zones is to implement the Broadway Valdez District Specific Plan. The Broadway Valdez District Specific Plan area is divided into two subareas: the Valdez Triangle and the North End. These regulations shall apply to the Broadway Valdez District (D-BV) Zones.

1. The intent for the Valdez Triangle subarea regulations is to:

   a. Create a recognized Oakland destination that provides a mix of uses that contributes to around-the-clock activity with people present both day and night, and on weekdays and weekends.

   b. Create a destination retail district that addresses the City's need for comparison goods shopping complemented with local-serving retail, dining, entertainment, office, and service uses.

   c. Encourage, support, and enhance a mix of small, medium, and large-scale retail, commercial, dining, entertainment, arts, cultural, office, residential, service, public plaza, and visitor uses.

   d. Encourage and enhance a pedestrian-oriented streetscape with street-fronting retail and complementary dining and entertainment uses.

   e. Establish a pedestrian, bicycle, and transit-oriented district that accommodates vehicular access.

2. The intent for the North End subarea regulations is to:

   a. Create an attractive, mixed-use boulevard that links the Downtown and Valdez Triangle areas to the Pill Hill, Piedmont, and North Broadway areas, and is integrated with the adjoining residential and health care-oriented neighborhoods.

   b. Encourage horizontally or vertically mixed use development that complements the Valdez Triangle and addresses the needs of adjoining and nearby neighborhoods with the potential of serving some regional needs close to Interstate 580.

c. Encourage uses that complement and support the adjoining medical centers, such as professional and medical office uses, medical supplies outlets, and visitor and workforce housing.

d. Encourage existing and new automotive sales that incorporate an urban format with a showroom and repair shop providing car storage either in a structured garage or in an off-site location.

B. Description of Zones. This Chapter establishes land use regulations for the following four (4) zones:

1. **D-BV-1 Broadway Valdez District Retail Priority Sites Commercial – 1 Zone.** The intent of the D-BV-1 Zone is to establish Retail Priority Sites in the Broadway Valdez District Specific Plan Area in order to encourage a core of comparison goods retail with a combination of small-, medium-, and large-scale retail stores. Priority Sites 3 and 5 are further divided into subareas a, b, and c and Priority Site 4 into subareas a and b as shown in the Height Area Map. Each Retail Priority Site and subarea will have a specified minimum square footage of retail required prior to Residential or Transient Habitation Activities and Facilities being permitted.

2. **D-BV-2 Broadway Valdez District Retail Commercial – 2 Zone.** The intent of the D-BV-2 Zone is to create, maintain, and enhance areas of the Broadway Valdez District Specific Plan Area for ground-level retail, restaurants, entertainment, and art activities with pedestrian-oriented, active storefront uses. Upper-story spaces are intended to be available for a wide range of Office and Residential Activities.

3. **D-BV-3 Broadway Valdez District Mixed Use Boulevard Commercial – 3 Zone.** The D-BV-3 Zone is intended to create, maintain, and enhance areas with direct frontage and access along Broadway, 27th Street, Piedmont Avenue, and Harrison Street. A wider range of ground-floor office and other commercial activities are allowed than permitted in the D-BV-2 Zone with upper-story spaces intended to be available for a broad range of Residential, Office, or other Commercial Activities. Mixed uses can either be vertical and/or horizontal.

4. **D-BV-4 Broadway Valdez District Mixed Use Commercial – 4 Zone.** The D-BV-4 Zone is intended to create, maintain, and enhance areas that do not front Broadway, 27th Street, Piedmont Avenue, or Harrison Street, and allows the widest range of uses on the ground floor including both residential and commercial businesses. Upper-story spaces are intended to be available for a broad range of Residential or Commercial Activities.

C. Description of Combining Zone. This Chapter establishes land use regulations for the following combining zone:

1. **N North Large Development Site Combining Zone.** The intent of the N Combining Zone is to encourage more active commercial uses on those sites that have deeper lots that front along Broadway. Incentives for large developments are included. When a primary zone is combined with the N Combining Zone, the N Combining Zone permitted uses supersede those of the primary zone.

17.101C.020 - Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

17.101C.030 - Permitted and conditionally permitted activities.

Table 17.101C.01 lists the permitted, conditionally permitted, and prohibited activities in the D-BV Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.101C.01: Permitted and Conditionally Permitted Activities

Activities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N*	
Residential Activities						
Permanent	C(L2)(L3)	P(L3)(L4)	P(L3)(L5)	P(L3)(L6)	P(L3)(L6)	
Residential Care	C(L1)(L2)(L3)	P(L1)(L3)(L4)	P(L1)(L3)(L5)	P(L1)(L3)(L6)	P(L1)(L3)(L6)	17.103.010
Supportive Housing	C(L2)(L3)	P(L3)(L4)	P(L3)(L5)	P(L3)(L6)	P(L3)(L6)	
Transitional Housing	C(L2)(L3)	P(L3)(L4)	P(L3)(L5)	P(L3)(L6)	P(L3)(L6)	
Emergency Shelter	—	—	—	—	—(L7)	17.103.010
Semi-Transient	—	—	—	—	—	
Bed and Breakfast	—	C	C	C	C	17.10.125
Civic Activities						
Essential Service	P(L19)	P(L19)	P(L19)	P(L22)	P(L19)	
Limited Child-Care Activities	P(L4)	P(L6)	P(L5)	P	P(L6)	

Activities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N*	
Community Assembly	C(L4)	C	C	C	C	
Recreational Assembly	P	P	P	P	P	
Community Education	P(L4)	P(L8)	P(L5)	P	P	
Nonassembly Cultural	P	P	P	P	P	
Administrative	P(L4)	P(L6)	P(L5)	P	P(L6)	
Health Care	C(L4)	P(L6)	P(L5)	P	P(L6)	
Special Health Care	—	—	C(L9) (L10)	C(L9)	C(L9)(L10)	17.103.020
Utility and Vehicular	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	
Commercial Activities						
General Food Sales	P(L11) (L12)	P	P	P	P	
Full Service Restaurants	P(L12)	P	P	P	P	
Limited Service Restaurant and Cafe	P(L12)	P	P	P	P	
Fast-Food Restaurant	C(L12)	C	C	C	C	17.103.030 and 8.09
Convenience Market	—	C	C	C	—	17.103.030
Alcoholic Beverage Sales	C(L12)	C	C	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	—	—	—	—	—	
Medical Service	C(L4)	P(L6)	P(L5)	P	P(L6)	
General Retail Sales	P(L12)	P	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	
Consumer Service	C(L11) (L13)	P(L8)(L13)	P(L13)	P(L13) (L14)	P	
Consultative and Financial Service	P(L4)	P(L6)	P	P	P(L5)	

Activities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N*	
Check Cashier and Check Cashing	—	—	—	—	—	
Consumer Cleaning and Repair Service	P(L8)	P(L14)	P(L14)	P(L14)	P(L5)	
Consumer Dry Cleaning Plant	—	—	—	—	--	
Group Assembly	C(L4) (L12) (L15)	C(L15)	C(L15)	C(L15)	C(L15)	
Personal Instruction and Improvement Services	P(L8)	P(L8)	P	P	P(L5)	
Administrative	P(L4)	P(L6)	P(L5)	P	P(L6)	
Business, Communication, and Media Services	P(L4)	P(L8)	P	P	P(L5)	
Broadcasting and Recording Services	P(L4)	P(L6)	P(L5)	P	P(L6)	
Research Service	C(L4)	P(L6)	P(L5)	P	P(L6)	
General Wholesale Sales	—	—	—	—	—	
Transient Habitation	C(L2)	C	C	—	C	17.103.050
Building Material Sales	—	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	C(L12) (L16)	C(L16)	C(L16)	C(L16)	C(L16)	
Automobile and Other Light Vehicle Gas Station and Servicing	—(L17)	—(L17)	C(L5)	—(L17)	—(L17)	
Automobile and Other Light Vehicle Repair and Cleaning	—(L17)	—(L17)	C(L5)	—(L17)	—(L17)	
Taxi and Light Fleet-Based Services	—	—	—	—	—	
Automotive Fee Parking	P(L18)	P(L18)	P(L18)	P(L18)	P(L18)	
Animal Boarding	—	—	—	C	—	
Animal Care	—	C(L10)	P(L5)	P	P(L6)	
Undertaking Service	—	—	—	—	—	
Industrial Activities						
Custom Manufacturing	C(L11)	C	P(L5)	P(L8)	C	17.120

Activities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N*	
Light Manufacturing	—	—	—	—	—	
General Manufacturing	—	—	—	—	—	
Heavy/High Impact	—	—	—	—	—	
Research and Development	—	—	—	—	—	
Construction Operations	—	—	—	—	—	
Warehousing, Storage, and Distribution-Related						
A. General Warehousing, Storage and Distribution	—	—	—	—	—	
B. General Outdoor Storage	—	—	—	—	—	
C. Self- or Mini- Storage	—	—	—	—	—	
D. Container Storage	—	—	—	—	—	
E. Salvage/Junk Yards	—	—	—	—	—	
Regional Freight Transportation	—	—	—	—	—	
Trucking and Truck-Related	—	—	—	—	—	
Recycling and Waste-Related						
A. Satellite Recycling Collection Centers	—	—	—	—	—	
B. Primary Recycling Collection Centers	—	—	—	—	—	
Hazardous Materials Production, Storage, and Waste Management-Related	—	—	—	—	—	
Agriculture and Extractive Activities						
Limited Agriculture	—	—	—	C(L20)	—	
Extensive Agriculture	—	—	—	C(L21)	—	
Plant Nursery	—	—	C(L5)	C	—	
Mining and Quarrying	—	—	—	—	—	
Accessory off-street parking serving prohibited activities	C(L8)	C(L8)	C(L5)	C	C(L5)	17.116.075

Activities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N*	
Activities that are listed as prohibited or conditionally permitted on nearby lots in an adjacent zone	C(L8)	C(L8)	C(L5)	C	C(L5)	17.102.110

*If the N Combining Zone, the N regulations supersede the primary zone.

Limitations on Table 17.101C.01:

L1. Except in the D-BV-1 Zone, Residential Care is permitted if located in a One-Family Dwelling Residential Facility. Residential Care is conditionally permitted if located anywhere in the D-BV-1 Zone; or if located anywhere other than a One-Family Dwelling Residential Facility in the D-BV-2, D-BV-3, or D-BV-4 Zones (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. These activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050 these activities must meet each of the following additional criteria:

a. A minimum square footage of retail area is part of the overall project, in accordance with Section 17.101C.050C and Section 17.101C.050D; and
b. The retail area encompasses a significant portion of the first floor but can also be part of the second floor and third floor. Incidental pedestrian entrances that lead to other activities in the building are permitted.

L3. See Section 17.101C.040 for limitations on the construction of certain types of new Residential Facilities.

L4. These activities are not permitted if located on the ground floor of a building and within fifty (50) feet of any street-abutting property line; incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this restriction.

L5. If located on the ground floor of a building and within sixty (60) feet from any street-abutting property line facing Broadway, 27th Street, or Piedmont Avenue, these activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. In addition to the CUP criteria contained in Section 17.134.050 these ground-floor activates must also meet each of the following additional criteria:

1. The proposal will not detract from the character desired for the area;

2. The proposal will not impair a generally continuous wall of building facades;

3. The proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;

4. The proposal will not interfere with the movement of people along an important pedestrian street; and

5. The proposal will conform in all significant respects with the Broadway Valdez District Specific Plan.

L6. These activities are prohibited if located on the ground floor of a building and within sixty (60) feet from any street-abutting property line facing Broadway. Incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction.

L7. Emergency shelters are permitted by-right within the portion of the Webster Street area described in Section 17.103.015(A)(3) and subject to the development standards in Section 17.103.015(B).

L8. These activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on the ground floor of a street-fronting building. Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground-floor activities must also meet each of the additional criteria contained in L5.

L9. These activities are limited to areas north of Hawthorne Street and west of Broadway. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity, or five hundred (500) feet from any K-12 school or Licensed Emergency Shelters. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L10. These activities are prohibited if located on the ground floor of a building and within sixty (60) feet from any street-abutting property line facing Broadway. Incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction. If these activities are located above the ground floor or beyond sixty (60) feet of Broadway they are only permitted upon the granting of a Conditional Use Permit (CUP) (see Chapter 17.134 for the CUP procedure), and shall conform to the CUP criteria contained in Section 17.134.050.

L11. If greater than five thousand (5,000) square feet of floor area, these activities are not allowed in new construction unless combined within a retail project that meets the requirements of Section 17.101C.050C and Section 17.101C.050D.

L12. Only these activities can be counted towards the minimum retail floor area that is required in order to develop Residential Facilities pursuant to Section 17.101C.050C and Section 17.101C.050D. For General Food Sales Commercial Activities, no more than five thousand (5,000) square feet can be counted toward the minimum retail area; for Group Assembly Commercial Activities, only a movie theatre that is above the ground floor can be counted toward the minimum retail area; for Automobile and Other Light Vehicle Sales and Rental Commercial Activities, only the interior showroom space can be counted toward the residential bonus threshold (space for auto repair, interior/outdoor inventory storage, and outdoor sales is not included). For pharmacies that fall within the General Retail Sales Commercial Activities: (a) if the retail component of the store is predominantly comparison goods, then the activity is permitted and counts toward the minimum retail floor area that is required in order to develop Residential Facilities; (b) if the retail component of the store is predominantly convenience

goods, then the activity does not count toward the minimum retail floor area that is required in order to develop Residential Facilities and is only permitted upon the granting of a Conditional Use Permit (CUP) (see Chapter 17.134 for the CUP procedure), and shall conform to the CUP criteria contained in Section 17.134.050. As described in the Broadway Valdez District Specific Plan and as further determined by the Planning Director: comparison goods include items such as clothing, jewelry, toys, books, sporting goods, home furnishings, appliances, and electronics; and convenience goods include items such as groceries, toiletries, alcoholic and soft drinks, tobacco products, candy, magazines, and newspapers.

L13. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L14. The total floor area devoted to these activities on the ground floor by any single establishment may only exceed five thousand (5,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet the additional criteria contained in L5.

L15. No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L16. Showrooms associated with these activities must be enclosed. Auto service is only allowed as an accessory activity. These activities are only permitted upon the granting of a Conditional Use Permit. In addition to the CUP criteria in Section 17.134.050, these activities must meet each of the following additional criteria:

1. That there will be no outside inventory lots;

2. That auto inventory will be stored either:

a. inside or on top of the dealership building; or

b. located at an offsite location that is outside of the D-BV-1, D-BV-2, or D-BV-3 Zones; or

c. within an existing structured parking facility that is within the D-BV-1, D-BV-2, or D-BV-3 Zones; or within a new structured parking facility that is within the D-BV-3 Zone;

3. That the proposal will not detract from the character desired for the area;

4. That the proposal will not impair a generally continuous wall of building facades;

5. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;

6. That the proposal will not interfere with the movement of people along an important pedestrian street; and

7. That the proposal will conform in all significant respects with the Broadway Valdez District Specific Plan.

L17. Reestablishment of a discontinued, legal non-conforming Automobile and Other Light Vehicle Gas Station and Servicing activity and/or an Automotive and Other Light Vehicle Repair and Cleaning activity may only occur no later than six (6) months after discontinuation of such a activity, per Section 17.114.050(A).

L18. Automotive Fee Parking is permitted when located on a lot containing a principle facility. Automotive Fee Parking is also permitted in a multi-story parking garage to serve nearby businesses upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet each of the additional criteria contained in L5.

L19. Community Gardens and Botanical Gardens are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L20. Limited Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;

2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and

3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

L21. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

L22. Community Gardens are permitted outright if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. The cultivation of animals, animal products and/or livestock production, except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

17.101C.040 - Permitted and conditionally permitted facilities.

Table 17.101C.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-BV Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

Table 17.101C.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N	
Residential Facilities						
One-Family Dwelling	—(L1)	—(L1)	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	—(L1)	—(L1)	—(L1)	17.103.080
Two-Family Dwelling	—(L1)	—(L1)	—(L1)	P(L3)	—(L1)	
Multifamily Dwelling	C(L2)	P(L3)	P(L4)	P	P(L5)	
Rooming House	C(L2)	P(L3)	P(L4)	P	P(L5)	
Micro Living Quarters	—	C(L3)(L7)	C(L4)(L6)(L7)	—	—	17.101C.055
Mobile Home	—	—	—	—	—	
Nonresidential Facilities						
Enclosed Nonresidential	P	P	P	P	P	
Open Nonresidential	C(L8)	C(L8)	C(L8)	C(L8)	C(L8)	
Sidewalk Cafe	P	P	P	P	P	17.103.090
Drive-In	—	—	—	—	—	
Drive-Through	—	—	C(L9)	—	—	17.103.100
Telecommunications Facilities						
Micro Telecommunications	P(L10)	P(L10)	P(L10)	P(L10)	P(L10)	17.128
Mini Telecommunications	P(L10)	P(L10)	P(L10)	P(L10)	P(L10)	17.128
Macro Telecommunications	C	C	C	C	C	17.128
Monopole Telecommunications	—	—	—	—	—	17.128
Tower Telecommunications	—	—	—	—	—	17.128
Sign Facilities						
Residential Signs	P	P	P	P	P	17.104
Special Signs	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	17.104
Realty Signs	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	17.104

Facilities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N	
Business Signs	P	P	P	P	P	17.104
Advertising Signs	—	—	—	—	—	17.104

*In the N Combining Zone, the N regulations supersede the primary zone.

Limitations on Table 17.101C.02:

L1. See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit may be permitted when there is no more than one (1) existing Primary Unit on a lot, subject to the provisions of Section 17.103.080.

L2. When located in a Retail Priority Site, construction of new Residential Facilities is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and when part of a larger project with a minimum square footage of retail area, in accordance with Section 17.101C.050C and Section 17.101C.050D.

L3. Construction of new ground-floor Residential Facilities is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement.

L4. Construction of new ground-floor Residential Facilities within sixty (60) feet from any street-abutting property line facing Broadway, 27th Street, or Piedmont Avenue, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement.

L5. Construction of new ground-floor Residential Facilities within sixty (60) feet from any street-abutting property line facing Broadway is prohibited. Incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction.

L6. In the D-BV-3 Zone, Micro Living Quarters may only be located southeast of Harrison Street and Bay Place.

L7. Micro Living Quarters may only be permitted upon the granting of a Conditional Use Permit (CUP) pursuant to the Conditional Use Permit procedure in Chapter 17.134. See Section 17.101C.055 for the definition and requirements of Micro Living Quarters.

L8. In the D-BV-1, D-BV-2, and D-BV-3 Zones, no conditional use permit is required for Open Nonresidential Facilities to accommodate seasonal sales or special events. In the D-BV-4 Zone, no conditional use permit is required for Open Nonresidential Facilities to accommodate Civic Activities, seasonal sales, or special events.

L9. A Drive Through Nonresidential Facility is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and is not permitted to enter or exit onto Broadway, 27th Street, Harrison Street, or Piedmont Avenue. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five

hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

L10. See Section 17.128.025 for restrictions on Telecommunication Facilities near Residential or HBX Zones.

17.101C.050 - Property development standards.

A. **Zone Specific Standards.** Table 17.101C.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "—" indicates that a standard is not required in the specified zone.

Table 17.101C.03: Property Development Standards

Development Standards	**Zones**				**Combining Zone***	Additional Regulations
	D-BV-1	**D-BV-2**	**D-BV-3**	**D-BV-4**	**N**	
Minimum Lot Dimensions						
Lot Width mean	100 ft.	50 ft.	25 ft.	25 ft.	100 ft.	1
Frontage	100 ft.	50 ft.	25 ft.	25 ft.	100 ft.	1
Lot area	10,000 sf.	7,500 sf.	4,000 sf.	4,000	10,000 sf.	1
Minimum/Maximum Setbacks						
Minimum front	0 ft.	0 ft.	0 ft.	0 ft.	0-4 ft.	2, 3
Maximum front	5 ft.	5 ft.	10 ft.	N/A	5 ft.	4
Minimum interior side	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	5, 6
Minimum street side	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	7
Rear (Residential Facilities)	10/15 ft.	10/15 ft.	10/15 ft.	10/15 ft.	10/15 ft.	8, 9
Rear (Nonresidential Facilities)	0/10/15 ft.	0/10/15 ft.	0/10/15 ft.	0/10/15 ft.	0/10/15 ft.	9
Design Regulations						
Minimum ground floor nonresidential facade transparency	55%	55%	55%	N/A	55%	10
Minimum height of ground floor Nonresidential Facilities	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	11
Parking and driveway location requirements	Yes	Yes	Yes	No	Yes	12
Ground floor active space	Yes	Yes	Yes	No	Yes	13

Development Standards	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N	
requirement						
Height, Floor Area Ratio, Density, and Open Space Regulations	See Tables 17.101C.05 and 17.101C.06	See Table 17.101C.04				
Minimum Required Parking	See Chapter 17.116 for automobile parking regulations; and Sections 17.116.080, 17.116.082, and 17.116.110 for additional parking regulations for the D-BV Zones. See Chapter 17.117 for bicycle parking regulations.					
Courtyard Regulations	See Section 17.108.120					

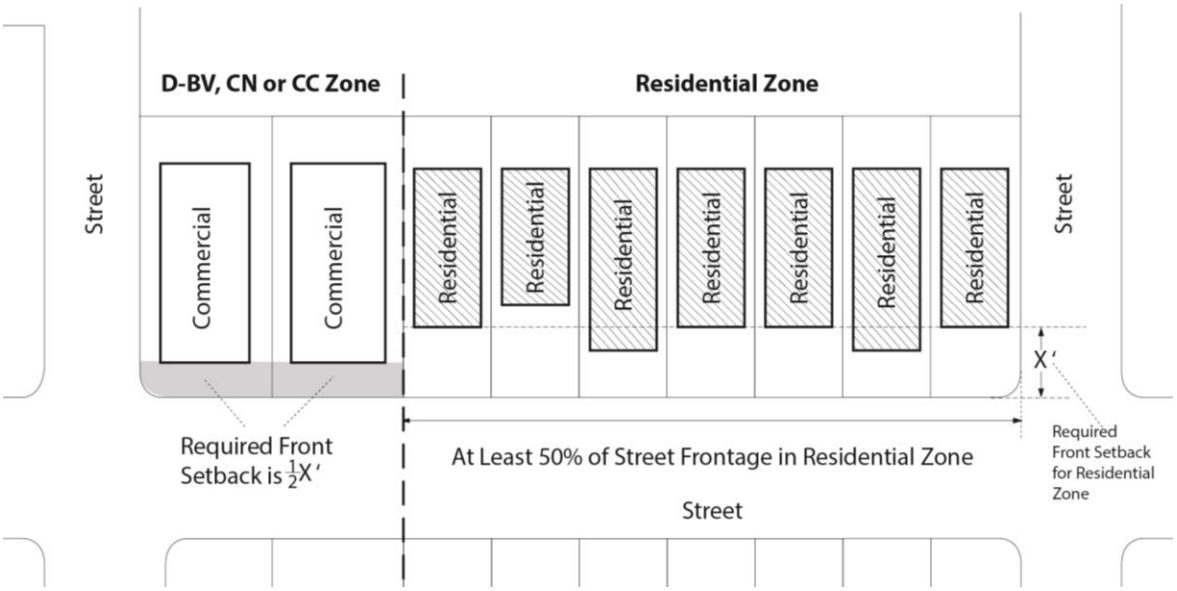
*In the N Combining Zone, the N regulations supersede the primary zone.

Additional Regulations for Table 17.101C.03:

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, lot width mean, and street frontage regulations.

2. If fifty percent (50%) or more of the frontage on one side of the street between two intersecting streets is in any Residential Zone and all or part of the remaining frontage is in any Commercial or Industrial Zone, the required front setback of the commercially or industrially zoned lots is one-half of the minimum front setback required in the Residential Zone. If fifty percent (50%) or more of the total frontage is in more than one Residential Zone, then the minimum front setback on the commercially or industrially zoned lots is one-half (½) of that required in the Residential Zone with the lesser front setback (see Illustration for Table 17.101C.03 [Additional Regulation 2], below).

Illustration for Table 17.101C.03 [Additional Regulation 2]
*for illustration purposes only



3. The minimum front yard required in the N Combining Zone is four (4) feet from Broadway if the rest of the block fronting Broadway is either vacant or has at least a four (4) foot front setback. Otherwise the front setback shall equal the setback of the existing building on the adjacent lot.

4. The following notes apply to the maximum front yard requirement:

a. The requirements only apply to the construction of new principal buildings.

b. The requirements do not apply to lots containing Recreational Assembly, Community Education, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities as principal activities.

c. Maximum yards apply to seventy-five percent (75%) of the street frontage on the principal street and fifty percent (50%) on other streets, if any. All percentages, however, may be reduced to fifty percent (50%) upon the granting of Regular Design Review approval (see Chapter 17.136 for the design review procedure). In addition to the Regular Design Review criteria contained in Section 17.136.035, the proposal to reduce to fifty percent (50%) must also meet each of the following additional criteria:

i. The additional yard area abutting the principal street is designed to accommodate publicly accessible plazas, cafes, or restaurants;

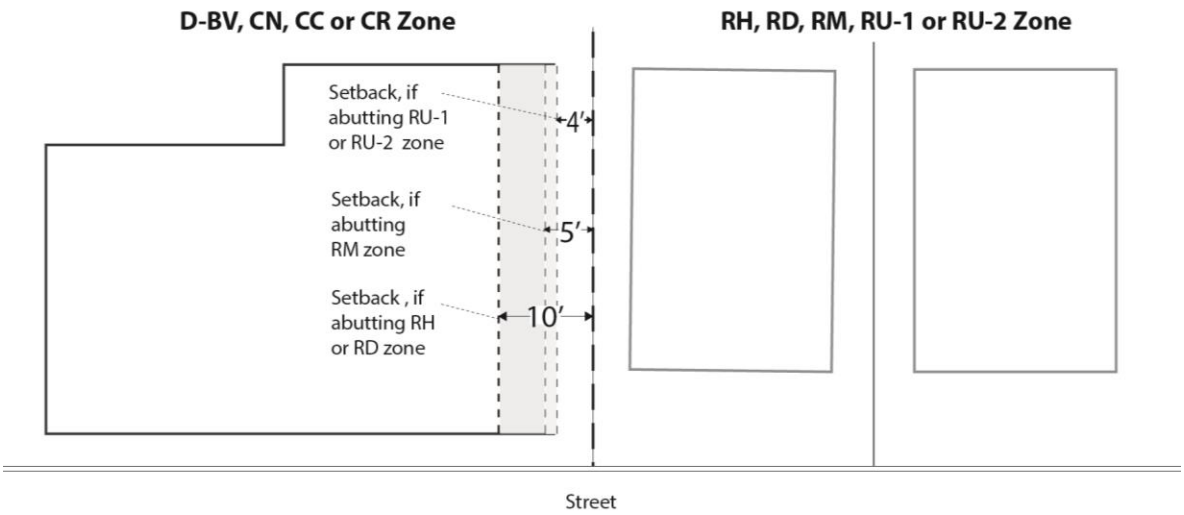
ii. The proposal will not impair a generally continuous wall of building facades;

iii. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and

iv. The proposal will not interfere with the movement of people along an important pedestrian street.

5. Wherever an interior side lot line abuts an interior side lot line of any lot located in an RH or RD Zone, the setback of the abutting portion of its side lot line is ten (10) feet. In the case where an interior side lot line abuts an interior side lot line in an RM Zone, the setback of the abutting portion of its side lot line is five (5) feet. In the case where an interior side lot line abuts a side yard of an RU-1 or RU-2 lot, a side setback of four (4) feet is required (see Illustration for Table 17.101C.03 [Additional Regulation 5], below). Also, see Section 17.108.130 for allowed projections into setbacks.

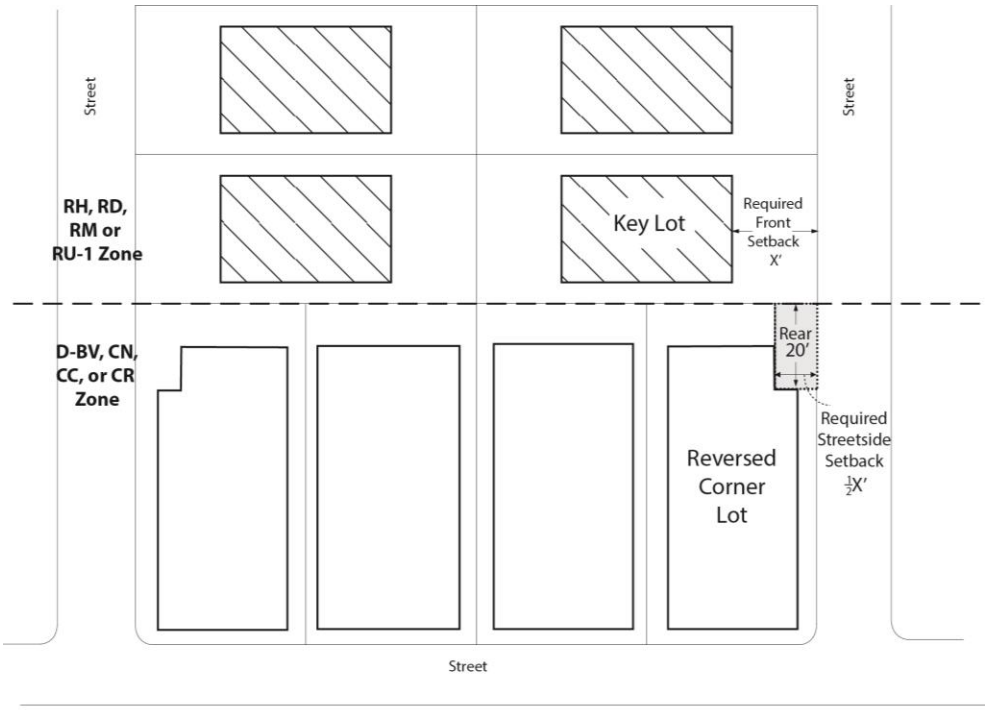
Illustration for Table 17.101C.03 [Additional Regulation 5]
*for illustration purposes only



6. See Section 17.108.080 for the required interior side and rear yard setbacks on a lot containing two (2) or more living units and opposite a legally required living room window.

7. When the rear yard of a reversed corner lot abuts a key lot that is in an RH, RD, or RM Zone, the required street side yard setback in the rear twenty (20) feet of the reversed corner lot is one-half (½) of the minimum front yard required on the key lot (see Illustration for Table 17.101C.03 [Additional Regulation 7], below). Also, see Section 17.108.130 for allowed projections into the setbacks.

Illustration for Table 17.101C.03 [Additional Regulation 7]
*for illustration purposes only

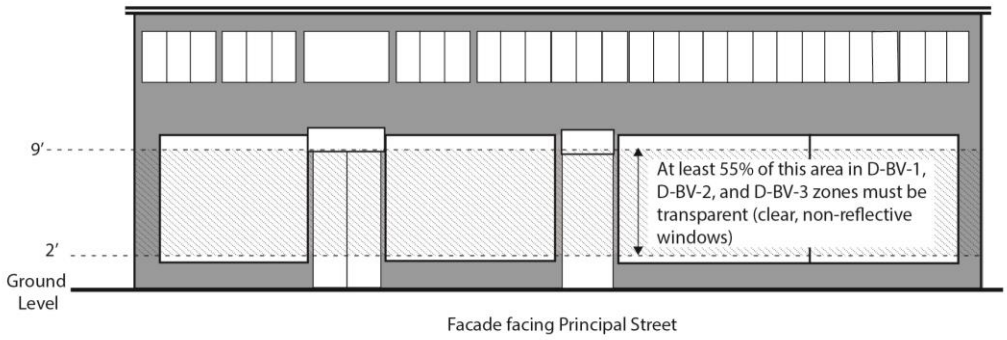


8. Wherever a rear lot line abuts an alley, one-half (½) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

9. When a rear lot line is adjacent to an RH, RD, or RM Zone, the required rear setback for both Residential and Nonresidential Facilities is ten (10) feet if the lot depth is one-hundred (100) feet or less and fifteen (15) feet if the lot depth is more than one-hundred (100) feet. When a rear lot line is not adjacent to an RH, RD, or RM Zone, the required rear setback is ten (10) feet for Residential Facilities and there is no required setback for Nonresidential Facilities.

10. This percentage of transparency is only required for principal buildings that include ground-floor Nonresidential Facilities, and only applies to the facade facing the principal street. The regulations only apply to facades located within twenty (20) feet of a street frontage. The area of required transparency is between two (2) feet and nine (9) feet in height of the ground floor and must be comprised of clear, non-reflective windows that allow views out of indoor activity space or lobbies (see Illustration for Table 17.101C.03 [Additional Regulation 10], below). Areas required for garage doors shall not be included in the calculation of facade area (see Note 12 for limitations on the location of parking access). Glass block does not qualify as a transparent window. Exceptions to this regulation may be allowed by the Planning Director for unique facilities such as convention centers, gymnasiums, parks, gas stations, theaters, and other similar facilities.

Illustration for Table 17.101C.03 [Additional Regulation 10]
*for illustration purposes only



11. This height is required for new principal buildings and is measured from the sidewalk grade to the second story floor.

12. For the new construction of principal buildings in the D-BV-1, D-BV-2, D-BV-3 Zone, and N Combining Zone, access to parking and loading facilities through driveways, garage doors, or other means shall not be from the principal street when alternative access is available from another location such as a secondary frontage or an alley. Where this is not feasible, every reasonable effort shall be made to share means of vehicular access with abutting properties. Open parking areas shall not be located between the sidewalk and a principal building.

13. For the new construction of principal buildings in the D-BV-1, D-BV-2, D-BV-3 Zone, and N Combining Zone, ground level parking spaces, locker areas, mechanical rooms, and other non-active spaces shall not be located within thirty (30) feet from the front of the principal building except for incidental entrances to such activities elsewhere in the building. Exceptions to this regulation may be permitted by the Planning Director for utilities and trash enclosures that cannot be feasibly placed in other locations of the building. Driveways, garage entrances, or other access to parking and loading facilities may be located on the ground floor of this area as regulated by Note 12, above.

B. **Height, Floor Area Ratio (FAR), Density, and Open Space.** Table 17.101C.04 below prescribes height, Floor Area Ratio (FAR), density, and open space standards associated with the Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table. "N/A" designates the regulation is not applicable to the specified Height Area.

Table 17.101C.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations

Regulation	**Height Area**								**Additional Regulations**
	45	**45***	**65**	**85**	**85/135**	**135**	**135/200**	**250**	
Maximum Height									
Building Base Max. Height	N/A	N/A	N/A	N/A	N/A /65 ft.	65 ft.	65/85 ft.	85 ft.	1, 2, 3
Maximum Height Total	45 ft.	45 ft.	65 ft.	85 ft.	85/135 ft.	135 ft.	135/200 ft.	250 ft.	1, 2, 3
Maximum number of stories (not including underground construction)	4	4	6	8	8/13	13	13/19	24	3
Minimum Height									
Minimum number of stories (not including underground construction)	2	N/A	2	3	3	3	3	3	2, 4
Conditionally permitted minimum number of stories (not including underground construction)	N/A	N/A	N/A	2	2	2	2	2	2
Maximum Residential Density (square feet of lot area required per dwelling unit)									
Regular units	450	N/A	375	275	275/200	200	200/ 150	90	3, 5, 6
Rooming units	225	N/A	185	135	135/100	100	100/75	45	3, 5, 6
Maximum Micro Living Quarters FAR	2.5	N/A	N/A	4.5	N/A	6.0	N/A	8.0	5, 6
Maximum Nonresidential FAR (excluding Micro Living Quarters)	2.5	2.5	3.5	4.5	4.5/6.0	6.0	6.0/8.0	10.0	3, 6
Minimum Usable Open Space									
Area: on each lot containing Residential Facilities of two (2) or more units, usable open space shall be provided for such facilities at a rate stated per dwelling unit	100 sf.	N/A	100 sf.	75 sf.	75 sf.	75 sf.	75 sf.	75 sf.	7, 8, 9
Area: on each lot containing Residential Facilities of two (2) or more units, usable open space shall be provided for such facilities at a rate stated per rooming unit	50 sf.	N/A	50 sf.	38 sf.	38 sf.	38 sf.	38 sf.	38 sf.	7, 8, 9
Area: on each lot containing senior of affordable housing units, usable open space shall be provided for such facilities at a rate stated per dwelling unit or rooming unit	30 sf.	N/A	30 sf.	30 sf.	30 sf.	30 sf.	30 sf.	30 sf.	7, 8, 9
Area: Conversion of Historic Resource building from commercial to residential, usable open space shall be provided for such facilities at a rate stated per dwelling or rooming unit	0 sf.	N/A	0 sf.	0 sf.	0 sf.	0 sf.	0 sf.	0 sf.	9, 9
Size and shape of open space: An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the dimensions shown below:									
Private Open Space: is accessible from a single unit	10 ft. for space on the ground floor and 4 ft. on other floors								7, 8, 9
Rooftop: a type of group open space, includes decks, swimming pools, spas	15 ft.								7, 8, 9

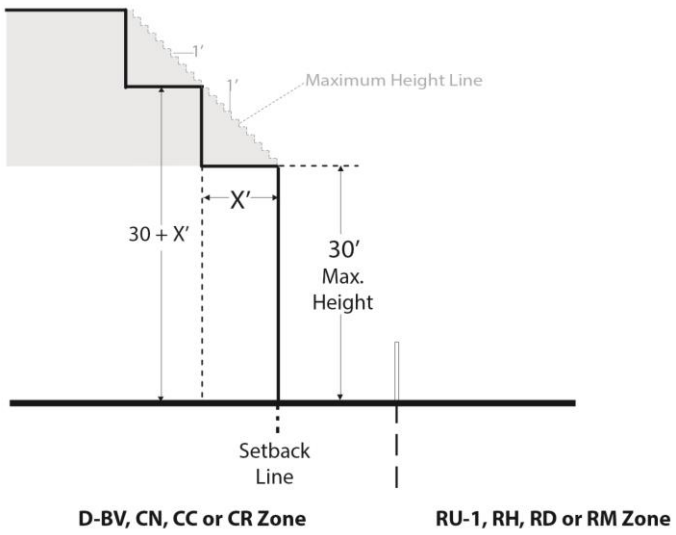
Regulation	Height Area								Additional Regulations
	45	45*	65	85	85/135	135	135/200	250	
and landscaping located on the rooftop and accessible to all tenants									
Courtyard: a type of group open space that can be located anywhere within the subject property	15 ft.								7, 8, 9
Private Group Community Room: a type of interior group space that could include a movie room, kitchen, and/or gym	10 ft. (1/3 of the required usable open space can be used for this type)								7, 8, 9
Public Ground-Floor Plaza: a type of group open space (see Section 17.127.030) located at street level and adjacent to the building frontage. Plazas are publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving	10 ft.								7, 8, 9

See Tables 17.101C.05 and 17.101C.06 for minimum retail square footage required and for potentially greater heights, stories, FAR, and residential bonus for mixed use, residential developments, or taller Non-residential Facilities in the Height Area 45 when part of a large project that involves major retail development.

Additional Regulations for Table 17.101C.04:

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 an RH, RD, or RM Zone; this maximum height shall increase one (1) foot for every foot of distance away from this setback line (see Illustration for Table 17.101C.04 [Additional Regulation 1], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

Illustration for Table 17.101C.04 [Additional Regulation 1]
*for illustration purposes only



2. See Tables 17.101C.05 and 17.101C.06 for minimum retail square footage required and for potentially greater heights, stories, FAR, and residential bonus for mixed use, residential developments, or taller Nonresidential Facilities in the Height Area 45* when part of a large project that involves major retail development. There are five (5) Retail Priority Sites that comprise Height Area 45*. Priority Sites 3 and 5 are further divided into subareas a, b, and c, and Priority Site 4 is divided into subareas a and b. Each Priority Site and subarea has a specified minimum square footage of retail required prior to Residential Activities and Facilities being permitted, as well as taller Nonresidential Facilities.

3. The numbers to the right of the slash (/) are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

4. The allowed projections into the height limits contained in Section 17.108.030 are not counted towards the height minimum.

5. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one (1) Primary Unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

6. For mixed use projects the allowable intensity of development shall be measured according to both the maximum nonresidential Floor Area Ratio (FAR) allowed by the zone and the maximum residential density allowed by the zone. The total lot area shall be used as a basis for computing both the maximum nonresidential FAR and the maximum residential density.

7. The following apply to open space standards:

- **a.** Areas occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the listed dimension.
- **b.** Openness. There shall be no obstructions above the space except for devices to enhance its usability, such as pergola or awning structures. There shall be no obstructions over ground-level private usable open space except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level private usable open space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.
- **c.** Usability. A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt or other serviceable, dust free surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected whenever necessary for space on a roof, but shall not be more than four (4) feet high.
- **d.** Accessibility. Usable open space, other than private usable open space, shall be accessible to all the living units on the lot. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room. Private usable open space may be located anywhere on the lot except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All private usable open space shall be adjacent to, and not more than four feet above or below the floor level of, the living unit served. Private

usable open space shall be accessible to only one living unit by a doorway to a habitable room or hallway.

e. Landscaping requirements. At least fifty percent (50%) of rooftop or courtyard usable open space area shall include landscaping enhancements. At least thirty percent (30%) of public ground floor plaza shall include landscaping enhancements. Landscaping enhancements shall consist of permanent features, such as trees, shrubbery, decorative planting containers, fountains, boulders or artwork (sculptures, etc.) The remainder of the space shall include user amenities such as seating, decorative paving, sidewalk cafes, or playground structures.

8. In-Lieu Fee: The open space requirements of this Section may be reduced or waived upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and payment of an in-lieu fee to the City of Oakland to be used to pay for new public open space/plaza(s) or existing public open space/plaza(s) improvements. The open space in-lieu fee shall be as set forth in the Master Fee Schedule. Open space in-lieu fees shall be deposited with the City of Oakland prior to issuance of a building permit. An open space in-lieu fee may be refunded, without interest, to the person who made such payment, or his assignee or designee, if additional open space is provided for such building so as to satisfy the open space requirement for which the in-lieu payment was made. To obtain a refund, the required open space must be in place prior to issuance of a certificate of occupancy and before funds are spent or committed by the City.

9. Notwithstanding anything to the contrary contained in the Planning Code, variances may not be granted relating to (a) a reduction and/or elimination of any open space; or (b) a reduction and/or elimination of any open space serving any activity, or if already less than currently required open space, shall not be reduced further below the requirements prescribed for such activity in this Chapter, as the granting of a CUP (see Chapter 17.134 for the CUP procedure) and payment of the in-lieu fee shall be the sole means of reducing or eliminating open space.

C. Retail Priority Sites Minimum Square Footage of Retail Area for Residential Facilities Bonus. Table 17.101C.05 below prescribes the minimum square footage of retail area required for each Retail Priority Site before a Residential or Transient Habitation Activity or Facility, or taller Nonresidential or Mixed Use Facility is allowed. The number designations in the "Additional Regulations" column refer to regulations below the table.

Table 17.101C.05 Retail Priority Sites Minimum Square Footage of Retail Area for Residential Facilities Bonus

Regulation	Minimum Retail Area (SF) Required to Develop Residential Facilities Bonus				Additional Regulations
	50% of Retail Priority Site Area	Retail SF/ Residential Unit Bonus	60% of Retail Priority Site Area	Retail SF/ Residential Unit Bonus	
Retail Priority Site 1	38,706 sf	125 Retail SF	46,447 sf	100 Retail SF	1, 2, 3, 4, 5, 6
Retail Priority Site 2	15,572 sf	125 Retail SF	18,686 sf	100 Retail SF	1, 2, 3, 4, 5, 6
Retail Priority Site 3					
3 (a)	22,745 sf	125 Retail SF	27,293 sf	100 Retail SF	1, 2, 3, 4, 5, 6
3 (b)	22,388sf	125 Retail SF	26,865 sf	100 Retail SF	1, 2, 3, 4, 5, 6
3 (c)	17,738sf	125 Retail SF	21,285 sf	100 Retail SF	1, 2, 3, 4, 5, 6
3 (a) and (b)	45,133 sf	125 Retail SF	54,158 sf	100 Retail SF	1, 2, 3, 4, 5, 6
3 (b) and (c)	40,126 sf	125 Retail SF	48,150 sf	100 Retail SF	1, 2, 3, 4, 5, 6
Retail Priority Site 4					
4 (a)	23,465 sf	125 Retail SF	28,157 sf	100 Retail SF	1, 2, 3, 4, 5, 6
4 (b)	54,567 sf	125 Retail SF	65,480 sf	100 Retail SF	1, 2, 3, 4, 5, 6
4 (a) and (b)	78,032 sf	125 Retail SF	93,637 sf	100 Retail SF	1, 2, 3, 4, 5, 6
Retail Priority Site 5					
5 (a)	45,905 sf	125 Retail SF	55,086 sf	100 Retail SF	1, 2, 3, 4, 5, 6
5 (b)	26,769 sf	125 Retail SF	32,122 sf	100 Retail SF	1, 2, 3, 4, 5, 6
5 (c)	21,935 sf	125 Retail SF	26,322 sf	100 Retail SF	1, 2, 3, 4, 5, 6
5 (a) and (b)	72,674 sf	125 Retail SF	87,208 sf	100 Retail SF	1, 2, 3, 4, 5, 6
5 (b) and (c)	48,704 sf	125 Retail SF	58,444 sf	100 Retail SF	1, 2, 3, 4, 5, 6
5 (a), (b), and (c)	94,609 sf	125 Retail SF	113,530 sf	100 Retail SF	1, 2, 3, 4, 5, 6

Additional Regulations for Table 17.101C.05:

1. See additional regulations in Table 17.101C.06: Retail Priority Sites: Height, Floor Area Ratio (FAR), Residential Bonus, and Open Space.

2. The following are regulations for retail square footage minimums:
   a. The following contribute to the retail square footage minimums:
      i. Retail floor area (see Limitation L11. in Table 17.101C.01 for all of the complementary activities that count as retail floor area);
      ii. Internal pedestrian stairs, corridors, and circulation;
      iii. Ground-floor public plaza/open space located on-site or adjacent off-site.
   b. Utilization of existing buildings towards new retail floor area can count toward the retail square footage. In the case of a CEQA Historic Resource:
      i. New retail square footage in a CEQA Historic Resource can count double towards the retail square footage required to obtain a residential bonus; or
      ii. If a CEQA Historic Resource is maintained and not used for retail, the area of its footprint can be deducted from the overall square footage of the Retail Priority Site in determining the square footage of retail required.
   c. Square footage of the following do not count towards the retail square footage minimum:
      i. Loading dock;
      ii. Parking;
      iii. Driveways, ramps, and circulation for cars and trucks.

3. If a project is phased, the minimum retail portion must be built first or concurrently with any residential portion. Any additional residential bonus units that are dependent on additional retail square footage may also only be built after the retail project or concurrently. If determined by the Director of City Planning, an applicant may be required to submit a financial guarantee, in a form and manner acceptable to the City, that the retail space will be built as part of the conditions of approval of the project.

4. An applicant that provides a retail project that equals at least sixty percent (60%) of the square footage of the Retail Priority Site may transfer the development rights of residential bonus units and height from one retail priority site to a different lot within the same retail priority site or to a lot within a different retail priority site upon the granting of a Conditional Use Permit (CUP). A CUP to transfer development rights of residential bonus units may be granted only upon determination that the proposal conforms to the general use permit criteria contained in Section 17.134.050 and to each of the following additional criteria:

   a. The applicant has acquired development rights from the owner(s) of lots within a Retail Priority Site Zone, restricting the number of residential units which may be developed thereon so long as the facilities proposed by the applicant are in existence;

   b. The owners of all such lots shall prepare and execute an agreement, approved as to form and legality by the City Attorney and filed with the Alameda County Recorder, incorporating such restriction;

   c. The proposed location and site planning of any transferred residential bonus units will not make infeasible future construction of the minimum retail square footage required at that Retail Priority Site;

d. Residential bonus units can only be transferred to a lot that cannot meet the minimum retail square footage required in that Retail Priority Site to build residential;

e. The site receiving the transferred residential units must include retail area on the ground floor pursuant to the requirements of the D-BV-1 Broadway Retail Priority Sites Zone; and

f. Retail floor area that existed prior to the effective date of this Chapter (July 31, 2014) cannot count towards the retail square footage needed for transfer of development rights for residential bonus units to other Retail Priority Sites.

5. For a bonus of residential units, the State Density Bonus can be applied by providing affordable housing units (see California Government Code, Section 65915-65918, as implemented by Chapter 17.101 of the Oakland Planning Code) or an applicant can utilize the following residential bonus within a Retail Priority Zone. However, these bonuses cannot be combined. The affordable units can be built on site or on another site within any D-BV Zone. The residential bonus shall not be included when determining the number of target units that must be affordable to the relevant income group. If fifteen percent (15%) of the total Dwelling Units of a Residential Housing Development are affordable, an additional residential bonus of thirty-five percent (35%) will be granted when an applicant for a Residential Housing Development seeks, and agrees to construct, at least any one of the following categories (which are defined in Section 17.107.020 (K), the following definitions in Section 17.107.020 (A)(B)(J)(M) also apply, and all of the provisions of Sections 17.107.110 – 17.107.114 must be met):

a. Lower Income Households; or

b. Very Low Income Households; or

c. A common interest development as defined in Section 1351 of the California Civil Code, for persons and families of Moderate Income, provided that all units in the development are offered to the public for purchase.

6. In the Retail Priority Areas, an exception to the minimum retail square footage required to receive the bonus right to residential units may be granted only upon determination that the proposal conforms to the general use permit criteria contained in Section 17.134.050, to any applicable use permit criteria set forth in Table 17.101C.01, Note L2, and to each of the following additional criteria:

a. The applicant submits an architectural study, prepared by a qualified architectural firm, that demonstrates at least one or more alternatives would be physically infeasible due to operational and/or site constraints if it were to meet the minimum retail square footage specified;

b. Strict compliance with the minimum retail square footage would preclude an effective design solution improving livability, operational efficiency, or appearance; and

c. The project will remain consistent with the Broadway Valdez District Specific Plan goals and policies related to retail development as well as its Design Guidelines.

D. Retail Priority Sites: Height, Floor Area Ratio (FAR), Residential Bonus, and Open Space. Table 17.101C.06 below prescribes height, FAR, residential bonus, and open space, standards associated with the minimum retail area required in the Retail Priority Sites described in Table 17.101C.05 above. The number designations in the "Additional Regulations" column refer to regulations below the table. "N/A" designates the regulation is not applicable to the specified retail percentage category.

Table 17.101C.06: Retail Priority Sites: Height, Floor Area Ratio (FAR), Residential Bonus, and Open Space

Regulation	Percentage (%) of Retail Area Equals the Square Footage of Retail Required from Table 17.101C.05 to Develop Residential Facilities or Taller Non-Residential Facilities		
	50% of Retail Priority Site	60% of Retail Priority Site	Additional Regulations
Maximum Height			
Building Base Max. Height	85 ft.	85 ft.	
Maximum Height Total	200 ft.	200/250 ft.	1, 2
Maximum number of stories (not including underground construction)	19	19/24	1, 2
Height Minimum	N/A	N/A	
Maximum Residential Bonus (retail square feet required per dwelling unit)			
Regular Units	125	100	2, 3, 4
Rooming Units	100	75	2, 3
Maximum Nonresidential FAR	8.0	8.0/10.0	1, 2
Minimum Usable Open Space			
Area: on each lot containing Residential Facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per dwelling unit	75 sf.	75 sf.	5, 6, 7
Area: on each lot containing Residential Facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per rooming unit	38 sf.	38 sf.	5, 6, 7
Area: on each lot containing senior of affordable housing units, usable open space shall be provided for such facilities at a rate stated per dwelling unit or rooming unit	30 sf.	30 sf.	5, 6, 7
Area: Conversion of Historic Resource building from commercial to residential, usable open space shall be provided for such facilities at a rate stated per dwelling or rooming unit	0 sf.	0 sf.	7
Size and shape of open space: An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the dimensions shown below:			
Private Open Space: is accessible from a single unit	10 ft. for space on the ground floor and 4 ft. on other floors		5, 6, 7
Rooftop: a type of group open space, includes decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants	15 ft.		5, 6, 7
Courtyard: a type of group open space that can be located anywhere within the subject property	15 ft.		5, 6, 7
Private Group Community Room: a type of interior group space that could include a movie room, kitchen, and/or gym	10 ft. (1/3 of the required usable open space can be used for this type)		5, 6, 7
Public Ground-Floor Plaza: a type of group open space (see Section 17.127.030) located at street level and adjacent to the building frontage. Plazas are publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving	10 ft.		5, 6, 7

Additional Regulations for Table 17.101C.06:

1. An applicant that provides a retail project that equals at least sixty percent (60%) of the square footage of the Retail Priority Site shall also be granted: (a) a maximum height of two hundred (200) feet and an FAR of 8.0; or (b) a maximum height of two hundred fifty (250) feet

and a FAR of 10.0 for no more than: (i) one building within 100 feet of 23rd Street and/or within the vacant portion of the block bounded by 23rd Street, Valdez Street, 24th Street, and Waverly Street; and (ii) one building within the block bounded by 23rd Street, Waverly Street, 24th Street, and Harrison Street.

2. See additional regulations in Table 17.101C.05 numbers 2 – 6.

3. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one (1) Primary Unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

4. The overall number of residential units cannot exceed the General Plan density allowance of eighty-seven (87) square feet of lot area per principal unit.

5. The following apply to open space standards:

a. Areas occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the listed dimension.
b. Openness. There shall be no obstructions above the space except for devices to enhance its usability, such as pergola or awning structures. There shall be no obstructions over ground-level private usable open space except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level private usable open space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.
c. Usability. A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt or other serviceable, dust free surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected whenever necessary for space on a roof, but shall not be more than four (4) feet high.
d. Accessibility. Usable open space, other than private usable open space, shall be accessible to all the living units on the lot. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room. Private usable open space may be located anywhere on the lot except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five (5) feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All private usable open space shall be adjacent to, and not more than four (4) feet above or below the floor level of, the living unit served. Private usable open space shall be accessible to only one living unit by a doorway to a habitable room or hallway.
e. Landscaping requirements. At least fifty percent (50%) of rooftop or courtyard usable open space area shall include landscaping enhancements. At least thirty percent (30%) of public ground floor plaza shall include landscaping enhancements. Landscaping enhancements shall consist of permanent features, such as trees, shrubbery, decorative planting containers, fountains, boulders or artwork (sculptures, etc.) The remainder of the space shall include user amenities such as seating, decorative paving, sidewalk cafes, or playground structures.

6. In-Lieu Fee: The open space requirements of this Section may be reduced or waived upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and payment of an in-lieu fee to the City of Oakland. The open space in-lieu fee shall be as set forth in the Master Fee Schedule. Open space in-lieu fees shall be deposited with the City of Oakland prior to issuance of a building permit. An open space in-lieu fee may be refunded, without interest, to the person who made such payment, or his assignee or designee, if additional open space is provided for such building so as to satisfy the open space requirement for which the in-lieu payment was made. To obtain a refund, the required open space must be in place prior to issuance of a certificate of occupancy and before funds are spent or committed by the City.

7. Notwithstanding anything to the contrary contained in the Planning Code, variances may not be granted relating to (a) a reduction and/or elimination of any open space; or (b) a reduction and/or elimination of any open space serving any activity, or if already less than currently required open space, shall not be reduced further below the requirements prescribed for such activity in this Chapter, as the granting of a CUP (see Chapter 17.134 for the CUP procedure) and payment of the in-lieu fee shall be the sole means of reducing or eliminating open space.

17.101C.055 – Micro Living Quarters.

A. Definition. For the purposes of the D-BV Zone Chapter only, the following definition is added as a facility type. Definitions for other facility types are contained in the Oakland Planning Code Chapter 17.10.

1. **"Micro Living Quarters"** mean one or more rooms located in a multiple-tenant building having an average net floor area of one hundred seventy-five (175) square feet, but a minimum size of one hundred fifty (150) square feet of net floor area, and occupied by a permanent residential activity. Bathroom facilities, which include toilet and sink, as well as shower and/or bathtub, are required to be located within each individual Micro Living Quarter. Cooking facilities are not allowed to be located within each individual Micro Living Quarter, and shared kitchen facilities are required within close proximity on the same building floor. The maximum number of Micro Living Quarters within a building shall not be regulated by residential density limits in the corresponding zone, but instead shall be established through the application of the Micro Living Quarters required average size (one hundred seventy five (175) square feet); the Floor Area Ratio (FAR) limits specified in the corresponding zone; all other applicable development regulations establishing the buildable envelope in the corresponding zone including, but not limited to, maximum height and minimum setbacks; and the requirements of the Building and Fire Codes.

B. Requirements. The following are requirements for Micro Living Quarters.

1. The number of off-street parking spaces, bicycle parking, and amount of open space required for Micro Living Quarters shall be based on the requirements for a Rooming House Residential Facility type in the corresponding zone.
2. Micro Living Quarters shall only be allowed as part of an application for new construction of a multi-tenant building, or alteration of an existing Potentially Designated Historic Property (PDHP) or property listed in the City of Oakland's Local Register of Historical Resources as defined in Policy 3.8 of Oakland's General Plan

Historic Preservation Element that is a Nonresidential Facility or Multifamily Dwelling Residential Facility.

3. Shared recreational area, with seating or other similar amenities, shall be required in the interior of the Micro Living Quarter building equaling a minimum of five (5) square feet per individual Micro Living Quarter or two hundred fifty (250) square feet, whichever is greater. A shared kitchen may be open to a shared recreation area if it is adjacent to and directly accessible from such shared kitchen facilities. Kitchen counters, cabinets, sinks, and appliances, and the floor area that encompasses an assemblage of these items, shall not be included in the calculation of minimum required shared recreational area. Shared laundry facilities or other similar utilitarian spaces shall also not be included in the calculation of minimum required shared recreational area. The minimum width in this shared recreational area shall be twelve (12) feet. The interior shared recreational area shall be accessible to all tenants of the Micro Living Quarter building.
4. All common areas, including but not limited to, shared kitchens, interior recreational area, and outdoor open space, shall be maintained by the building management.
5. Demolition of a property listed in the City of Oakland's Local Register of Historical Resources as defined in Policy 3.8 of Oakland's General Plan Historic Preservation Element is not allowed in order to build Micro Living Quarters.
6. Use Permit Criteria. A Conditional Use Permit for Micro Living Quarters may only be granted 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 each of the following additional use permit criteria:
   a. The proposal will not detract from the character desired for the area;
   b. The proposal will not impair a generally continuous wall of building facades;
   c. The proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;
   d. The proposal will not interfere with the movement of people along an important pedestrian street; and
   e. The proposal will conform in all significant respects with the Broadway Valdez District Specific Plan.

17.101C.060 - Special regulations for Mini-Lot and Planned Unit Developments.

A. Mini-Lot Developments. In Mini-Lot Developments, certain regulations that apply to individual lots in the D-BV Zones may be waived or modified when and as prescribed in Section 17.142.

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 D-BV Zones, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the

PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

17.101C.070 - Other zoning provisions.

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

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

C. **General Provisions.** The general exceptions and other regulations set forth in Chapters 17.102, 17.104, 17.106, and 17.108 shall apply in the D-BV Zones.

D. **Recycling Space Allocation Requirements.** The regulations set forth in Chapter 17.118 shall apply in the D-BV Zones.

E. **Landscaping and Screening Standards.** The regulations set forth in Chapter 17.124 shall apply in the D-BV Zones.

F. **Buffering.** All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

FOOTNOTE(S):

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Chapter 17.101D D-KP KAISER PERMANENTE OAKLAND MEDICAL CENTER DISTRICT ZONES REGULATIONS

Sections:

17.101D.010 Title, purpose and applicability.

17.101D.020 Special regulations governing use and development in the D-KP-4 Zone.

17.101D.030 Permitted and conditionally permitted activities.

17.101D.040 Permitted and conditionally permitted facilities in the D-KP-1, D-KP-2, and D-KP-3 Zones.

17.101D.050 Required Master Plan conformance and design review.

17.101D.060 Design review.

17.101D.070 Design review application.

17.101D.080 Master Plan amendment.

17.101D.090 Minimum lot area width and frontage.

17.101D.100 Maximum floor area.

17.101D.110 Maximum height for new construction.

17.101D.120 Parking and loading areas.

17.101D.130 Signs.

17.101D.140 Landscaping, buffering and screening.

17.101D.150 Demolition.

17.101D.160 Skybridges.

17.101D.010 Title, purpose and applicability.

A. **Title and Purpose.** The provisions of this Chapter shall be known as the D-KP Kaiser Permanente Oakland Medical Center District Zones Regulations. This Chapter establishes land use regulations for the D-KP-1, D-KP-2 D-KP-3 and D-KP-4 Zones, which are depicted in Figure OMC 1. The purposes of the Kaiser Permanente Oakland Medical Center Zones are to:

1. Replace the Oakland Medical Center with a new, state of the art facility to serve Kaiser Permanente's Oakland and Alameda membership;
2. Comply with state requirements under SB 1953 mandating the seismic upgrade or replacement of the Oakland Medical Center hospital;
3. Update and modernize the Oakland Medical Center's patient care and administrative service space to meet Kaiser Permanente's current standards;

4. Ensure that the Oakland Medical Center will be architecturally and functionally integrated, and that the Oakland Medical Center will be compatible with the existing neighborhood;
5. Provide a framework of development standards that takes into account the scale, massing and content of the surrounding community;
6. Provide a set of procedures and practices to review and consider future design of new building construction.

B. **Description of Zones.** This Chapter establishes land use regulations for the following four (4) zones:

1. **D-KP-1 Kaiser Permanente Oakland Medical Center Commercial District – 1 Zone:** The D-KP-1 Zone is intended for those properties north of MacArthur Boulevard and west of Broadway.
2. **D-KP-2 Kaiser Permanente Oakland Medical Center Commercial District – 2 Zone:** The D-KP-2 Zone is intended for those properties south of MacArthur Boulevard.
3. **D-KP-3 Kaiser Permanente Oakland Medical Center Commercial District – 3 Zone:** The D-KP-3 Zone is intended for those properties north of MacArthur Boulevard and east of Broadway.
4. **D-KP-4 Kaiser Permanente Oakland Medical Center Residential District – 4 Zone:** The D-KP-4 Zone is intended for those single family residential properties on the east side of Manila Avenue and will have the permitted uses further restricted during time the properties remain a part of the Kaiser Permanente Oakland Medical Center.

C. The Kaiser Permanente Oakland Medical Center Zoning District is applied as an overlay district for those properties which are not owned by Kaiser Permanente. The existing zoning designation shall remain as the applicable zoning district, and the zoning regulations associated with that zoning district shall govern all development and use of the property until Design Review for the parcel/lot is approved by the City in accordance with the provisions of the D-KP District, with the consent of the property owner. Upon approval of Design Review, the zoning standards, guidelines, regulations and other requirements for the development and use of property within the applicable D-KP District and the adopted conditions of approval or mitigation monitoring program shall govern the use and development of that property.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.020 Special regulations governing use and development in the D-KP-4 Zone.

A. The properties in the D-KP-4 Zone that are zoned RU-3 shall be subject to the regulations of the RU-3 Residential Zone, except that while the properties are included as a part of the Kaiser Permanente Oakland Medical Center, the properties may only be used for the following activities: (i) single family residential uses; (ii) sleeping rooms for medical center staff; or (iii) temporary housing for families of members receiving long-term care at the Kaiser Permanente Oakland Medical Center.

B. The existing single family residential buildings on the east side of Manila within the D-KP-4 Zone shall remain.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.030 Permitted and conditionally permitted activities.

Table 17.101D.01 lists the permitted, conditionally permitted, and prohibited activities in the D-KP-1, D-KP-2, and D-KP-3 Zones. The descriptions of these activities are contained in Chapter 17.10.

"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.

"—" designates uses that are prohibited in the corresponding zone.

Table 17.101D.01 Permitted and Conditionally Permitted Activities

Activity Types	Zones			Additional Regulations
	D-KP-1	D-KP-2	D-KP-3	
Residential Activities				
Permanent	P	P	P	
Residential Care	P(L6)	P(L6)	P(L6)	17.103.010
Supportive Housing	P	P	P	
Transitional Housing	P	P	P	
Emergency Shelter	C	C	C	17.103.010
Semi-Transient	C	C	C	17.103.010
Bed and Breakfast	C	C	C	17.10.125
Civic Activities				
Essential Service	P(L5)	PL5)	P(L5)	
Limited Child-Care	P	P	P	
Community Assembly	P	P	P	
Recreational Assembly	P	P	P	
Community Education	P	P	P	
Nonassembly Cultural	P	P	P	
Administrative	C	C	C	
Health Care	P	P	P	
Special Health Care	C(L1)	C(L1)	C(L1)	17.103.020
Utility and Vehicular	C	C	C	
Extensive Impact	C	C	C	
Commercial Activities				
General Food Sales	P	P	P	
Full Service Restaurants	P	P	P	

Activity Types	Zones			Additional Regulations
	D-KP-1	D-KP-2	D-KP-3	
Limited Service Restaurants and Cafe	P	P	P	
Fast-Food Restaurant	C	C	C	17.103.030 and 8.09
Convenience Market	P	C	C	17.103.030
Alcoholic Beverage Sales	C	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	C	C	C	
Medical Service	P	P	P	
General Retail Sales	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	
Consumer Service	P(L2)	P(L2)	P(L2)	
Consultative and Financial Service	C	C	C	
Check Cashier and Check Cashing	—	—	—	
Consumer Cleaning and Repair	P	P	P	
Consumer Dry Cleaning Plant	C	C	C	
Group Assembly	C(L3)	C(L3)	C(L3)	
Personal Instruction and Improvement Services	P	P	P	
Administrative	C	C	C	
Business, Communication, and Media Service	C	C	C	
Broadcasting and Recording Services	C	C	C	
Research Service	C	C	C	
General Wholesale Sales	—	—	—	
Transient Habitation	—	—	—	
Building Material Sales	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	
Taxi and Light Fleet-Based Services	—	—	—	
Automotive Fee Parking	C	C	C	

Activity Types	Zones			Additional Regulations
	D-KP-1	D-KP-2	D-KP-3	
Animal Boarding	C	C	C	
Animal Care	C	C	C	
Industrial Activities	All Industrial Activities prohibited in these zones			
Agricultural and Extractive Activities				
Limited Agriculture	C(L4)	C(L4)	C(L4)	
Extensive Agriculture	—	—	—	
Off-street parking serving activities other than those listed above or in Section 17.74.030, subject to the conditions set forth in Section 17.116.075	C	C	C	17.74.030 17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone	C	C	C	17.102.110

Limitations:

L1. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity, or five hundred (500) feet from any K-12 school or Licensed Emergency Shelters. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L2. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L3. No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17,102.160 for further regulations regarding Adult Entertainment Activities.

L4. Limited Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;

2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and

3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

L5. Community Gardens are permitted outright if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. The cultivation of animals, animal products and/or livestock production, except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L6. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.040 Permitted and conditionally permitted facilities in the D-KP-1, D-KP-2, and D-KP-3 Zones.

Table 17.101D.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-KP-1, D-KP-2, and D-KP-3 Zones. The descriptions of these activities are contained in Chapter 17.10.

"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

"—" designates uses that are prohibited in the corresponding zone

Table 17.101D.02 Permitted and Conditionally Permitted Facilities

Facility Types	Zones			Additional Regulations
	D-KP-1	**D-KP-2**	**D-KP-3**	
Residential Facilities				
One-Family Dwelling	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	17.103.080
Two-Family Dwelling	P	P	P	
Multifamily Dwelling	P	P	P	
Rooming House	P	P	P	
Mobile Home	—	—	—	
Nonresidential Facilities				
Enclosed nonresidential facilities	P	P	P	
Open nonresidential facilities	C(L2)	C(L2)	C(L2)	

Facility Types	Zones			Additional Regulations
	D-KP-1	**D-KP-2**	**D-KP-3**	
Sidewalk Cafe	P	P	P	17.103.090
Drive-In	C	C	C	
Drive-Through	C(L1)	(L1)	C(L1)	17.103.100
Telecommunications Facilities				
Micro Telecommunications	P	P	P	
Mini Telecommunications	C	C	C	
Macro Telecommunications	C	C	C	
Monopole Telecommunications	C	C	C	
Tower Telecommunications	—	—	—	
Sign Facilities				
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

Limitation:

L1. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

L2. No Conditional Use Permit (CUP) is required for Open Nonresidential Facilities to accommodate Civic Activities, seasonal sales, or special events.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.050 Required Master Plan conformance and design review.

A. Substantial Conformance to the Kaiser Permanente Oakland Medical Center Master Plan is required for all projects in the D-KP-1, D-KP-2, and D-KP-3 Zones.

B. 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 Section 17.101D.060.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.060 Design review.

A. Design Review Application.

1. Pre-Application Conference: Prior to application for design review, the applicant or his or her representative shall have a conference with a representative of the City Planning Department before or at an early stage in the design process to review the proposed project for consistency with the adopted Kaiser Permanente Oakland Medical Center Master Plan. At the conference, the City representative shall provide information about applicable design review criteria and pertinent procedures, including the opportunity for advice from outside design professionals. Where appropriate the City representative may also informally discuss possible design solutions, point out potential neighborhood concerns, and mention local organizations which the applicant is encouraged to contact before finalizing the proposal.

2. Application for Design Review: Application for design review shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall be accompanied by such information as may be required to allow applicable criteria to be applied to the proposal, and by the fee prescribed in the City's Master Fee Schedule. Such information may include, but is not limited to, site and building plans, elevations, and relationships to adjacent properties.

B. Exemptions from Design Review. The following changes to existing nonresidential buildings are exempt from design review:

1. Any alteration or addition of existing floor area or footprint area determined by the Director of City Planning to be not visible from the street or from other public areas. An alteration or addition will normally be considered "not visible from the street or from other public areas" if it does not affect any street face or public face of a building or is located more than forty (40) feet from any street line, public path, park or other public area;

2. Alterations or additions of floor area or footprint that are determined by the Director of City Planning to be visible from the street or from other public areas, but which comprise less than twenty-five thousand (25,000) square feet or ten percent (10%) of the total floor area, whichever is smaller;

3. A change of sign face copy or new sign face so long as the structure and framework of the sign remain unchanged and the new sign face duplicates the colors of the original or, in the case of an internally illuminated sign, the letter copy is light in color and the background is dark;

4. Any alteration or addition not normally exempt which is used as a loading dock, recycling area, utility area, porch, deck or similar open structure addition that is no higher than six (6) feet above finished grade, less than five hundred (500) square feet in floor or footprint area, and has no significant visual or noise impact to neighboring properties or from a public street. Exemptions only permitted where the proposal conforms with all buffering requirements in Chapter 17.110 and all performance standards in Chapter 17.120;

5. The alteration or addition is on a roof and does not project above the parapet walls.

C. Small Project Design Review. "Small project design review" means design review for minor alterations or additions to existing facilities that do not require a Subsequent or Supplemental EIR nor any other permit, variance or other approval pursuant to the zoning regulations of Title 17 of the Oakland Planning Code.

1. Definition of Small Projects. Small Projects are limited to one or more of the following types of work:

a. New or modified signs, excluding advertising signs; signs extending above the roofline; and multi-tenant freestanding signs;

b. New or modified awnings;

c. Color changes to buildings, signs, awnings or other facilities;

d. Changes to storefronts or ground floor facades limited to replacement or construction of doors, windows; bulkheads and nonstructural wall infill; or installation or replacement of security grilles or gates; provided, however, they do not involve properties considered to be Historic Resources as defined by CEQA Guidelines section 15064.5 (14 CFR section 15064.5) and the City's Historic Preservation Element Policy 3.8;

e. Installation of flags or banners having any permanent structure within the public right of way;

f. Fences.

2. Procedure for Consideration of Small Project Design Review: An application for Small project design review shall be considered by the Director of City Planning.

a. The Director shall determine whether the proposal conforms to the applicable design review criteria and also is in substantial conformance to the Kaiser Permanente Oakland Medical Center Master Plan.

b. The Director may approve or disapprove the proposal and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria.

c. The Director's decision shall be in writing, shall be final immediately and is not appealable.

d. Whenever an application for Small project design review has been denied by the Director of City Planning, no Small project design review application for essentially the same proposal affecting the same property, or any portion thereof, shall be filed within one year after the date of denial; provided, however, that such proposal may be resubmitted as an application for Regular design review within one year of denial in accordance with Section 17.136.120.

D. Regular Project Design Review. Unless determined exempt or subject to Small project design review pursuant to Section 17.101D.040 B or C above, no building, sign or other facility shall be constructed or established or altered in such a manner as to substantially affect its exterior appearance unless plans for such proposal have been approved pursuant to the following Regular Design Review procedures:

1. Reviewing Body:

a. If the project requires preparation of a Subsequent or Supplemental Environmental Impact Report, or involves more than twenty-five thousand (25,000) square feet of floor area, or includes a proposed skybridge, the Director of City Planning shall refer the application to the City Planning Commission for an initial decision.

b. All other applications for Regular design review shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission for an initial decision rather than acting on it himself or herself.

2. Procedure for Consideration of Design Review: Applications for design review shall be considered by the Director of City Planning or the Planning Commission according to the following procedures:

a. Decisions by the Planning Commission shall be made at a public hearing. At his or her discretion, the Director of City Planning may hold an administrative hearing for projects under his or her review.

b. Notice of public and/or administrative hearings shall be given by posting notices thereof within three hundred (300) feet of the property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the City within three hundred (300) feet of the property involved. Notice shall also be given by e-mail, mail or delivery to all persons previously requesting to be notified of actions related to the Kaiser OMC Campus through public workshops, community meetings or other direct requests to the Planning Department. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director or the Commission, as the case may be.

c. The Director or the Commission may seek the advice of outside design professionals and/or refer the matter to the City's Landmark's Preservation Advisory Board if Historic Resources may potentially be affected.

d. The Director or the Commission, as the case may be, shall determine whether the proposal conforms to the applicable design review criteria and also is in substantial conformance to the Kaiser Permanente Oakland Medical Center Master Plan, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in his or her or its judgment necessary to ensure conformity to said criteria.

e. A determination by the Director shall become final ten (10) days after the date of decision unless appealed to the City Planning Commission in accordance with the procedures in Section 17.136.080. The decision of the Planning Commission on appeal is final and is itself not appealable.

f. An initial decision of the Commission shall become final ten (10) days after the date of decision unless appealed to the City Council in accordance with the procedures in Section 17.136.090.

E. Design Review Criteria. Design review approval may be granted only if the proposal is in substantial conformance to the Kaiser Permanente Oakland Medical Center Master Plan including without limitation its goals, objectives, principles and guidelines, and also conforms to all of the following criteria:

a. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered; and

b. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area; and

c. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable district plan or development control map which has been adopted by the City Council; and

d. That any proposed retaining wall is consistent with the overall building and site design and respects the natural landscape and topography of the site and surrounding areas, and that the retaining wall is responsive to human scale, avoiding large, blank, uninterrupted or un-designed vertical surfaces.

F. Adherence to Approved Plans. A design review approval shall be subject to the plans and other conditions upon the basis of which it was granted and shall terminate in accordance with Section 17.136.100.

G. Revocation/Enforcement. In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed condition of approval, or if the activity causes a public nuisance, the City may, after holding a public hearing, revoke any design review approval or other approval or take other enforcement actions in accordance with the procedures in Chapter 17.152.

H. Review by Landmarks Board. A design review application may be subject to review by the Landmarks Preservation Advisory Board in accordance with Section 17.136.040.

I. Design Review and Other Approvals. Whenever design review approval is required for a proposal also requiring a conditional use permit, or Planned Unit Development (PUD) permit or variance, the application for design review shall be included in the application to said permit and shall be processed and considered as part of same, in accordance with Section 17.136.120.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.070 Design review application.

The application for design review for one or more Campus Zones shall include the following:

1. Streets, driveways, sidewalks, pedestrian and bike ways, and off-street parking and loading areas, including integration with surrounding uses.

2. Location and dimensions of structures.

3. Major landscaping features, including trees protected by Oakland Municipal Code Chapter 12.36, as it may be amended.

4. Creeks Protected by Oakland Municipal Code Chapter 13.16, as it may be amended.

5. The presence of any historic resources pursuant to the City's Historic Preservation Element Policy 3.8 or as defined in Section 15064.5 of Title 14 of the California Code of Regulations.
6. Plan and elevation drawings establishing the scale, character, and relationship of buildings, streets, and open spaces, and a description of all exterior building materials.
7. A tabulation of the land use area and gross floor area to be devoted to health care and retail uses, if any.
8. A public services and facilities plan including proposed location, extent and intensity of essential public services and facilities such as public streets and transit facilities, pedestrian access, bikeways, sanitary sewer service, water service, storm drainage structures, solid waste disposal and other utilities and a table comparing the descriptions to the existing location, extent and intensity of such essential public facilities and services.
9. If required, a Phasing Plan generally depicting projected development time frames sufficient to illustrate the relationship between the phasing of development and the provision of public facilities and services and parking.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.080 Master Plan amendment.

A. The City Council shall not amend the Kaiser Permanente Oakland Medical Center Master Plan until after it has received, pursuant to this procedure, a recommendation from the Planning Commission. The purpose of these provisions is to set forth the procedure by which amendments may be made to the Kaiser Permanente Oakland Medical Center Master Plan.

   1. Private Party Initiation. The owner of any property with a D-KP Zone, or his or her authorized agent, may make application to the City Planning Commission to amend the Kaiser Permanente Oakland Medical Center Master Plan.
   2. Commission Initiation. The City Planning Commission may, and upon request of the City Council, initiate a Kaiser Permanente Oakland Medical Center Master Plan amendment. Such initiation shall be for the purpose of reviewing the merits of the proposal and shall not imply advocacy by the Commission for amendment.

B. A private party application shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall be accompanied by the fee prescribed in the City's Master Fee Schedule. Upon receipt of a completed application, the Director shall, within a reasonable period of time, schedule a public hearing before the Planning Commission. The Director or the Commission may seek the advice of outside design professionals and/or refer the matter to the City's Landmark's Preservation Advisory Board if Historic Resources may be affected.

C. In the case of initiation by the City Planning Commission or initiation by a private party, the Commission shall, within ninety (90) days from the date the submittal is deemed complete, hold a public hearing on the proposal. The Director or the Commission may seek the advice of outside design professionals and/or refer the matter to the City's Landmark's Preservation Advisory Board if Historic Resources may be affected. The Commission shall, in every case, make a recommendation to the City Council for appropriate action.

D. Upon receipt of a recommendation from the City Planning Commission, the City Council shall set the date for consideration of the matter. The Council may approve, modify, or disapprove the Commission's recommendations, as the case may be. The decision of the City Council shall be made by resolution and shall be final.

E. Notice of public hearings required herein shall be given by (1) newspaper; (2) posting notices thereof within three hundred (300) feet of the property involved in the application; and (3) by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the City within three hundred (300) feet of the property involved. Notice shall also be given by e-mail, mail or delivery to all persons previously requesting to be notified of actions related to the Kaiser OMC Campus through public workshops, community meetings or other direct requests to the Planning Department. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing on the application before the Commission or City Council, as the case may be.

F. Whenever a private party application has been denied by the City Council, no such application for the same proposal shall be filed within one year after the date of denial.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.090 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		
	D-KP-1	**D-KP-2**	**D-KP-3**
Minimum lot area	4,000	4,000	4,000
Minimum lot width mean	25 ft.	25 ft.	25 ft.
Minimum lot frontage	25 ft.	25 ft.	25 ft.

Lot width and frontage for D-KP-4 based on the RU-3 Zone.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.100 Maximum floor area.

The maximum floor area for the aggregate of all the D-KP zoned properties shall not exceed 1.76 million square feet excluding parking structures. This includes approximately four hundred thirty-two thousand three hundred (432,300) square feet of existing buildings not to be redeveloped (the Piedmont, Howe, Fabiola, Mosswood and Kings Daughter Mental Health buildings) and a maximum of one million three hundred fifty-three thousand (1,353,000) square feet of new construction. The following floor area requirements will ensure that density of new construction is appropriately distributed throughout the D-KP Zones.

A. The maximum floor area of new construction in the D-KP-1 Zone shall be one hundred seventy-two thousand seven hundred (172,700) square feet (one hundred sixty-five thousand (165,000) square feet of medical office space and a maximum of seven thousand seven hundred (7,700) square feet retail.

B. The maximum floor area of new construction in the D-KP-2 Zone shall be nine hundred fifty-seven thousand (957,000) square feet. An additional sixty thousand (60,000) square feet of space may be added to this building (to a maximum of one million one hundred seven thousand (1,107,000) square feet) provided that Kaiser submit a schematic development plan that delineates the development program for Phase 3. In order to qualify for this option, the schematic development plan for Phase 3 must be submitted for review by the City Planning Commission prior to occupancy of the Phase 2 parking garage.

C. The maximum floor area of new construction in the D-KP-3 Zone shall be two hundred twenty-three thousand (223,000) square feet. However, should Kaiser select to add the additional sixty thousand (60,000) square feet of space to Phase 2 as described in Subsection B. above, then the maximum floor area of Phase 3 would be correspondingly reduced by as much as sixty thousand (60,000), to a maximum of one hundred sixty-three thousand (163,000) square feet.

(Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.110 Maximum height for new construction.

The maximum heights for new construction in the D-KP Zones shall be as follows:

A. In the D-KP-1 Zone, the maximum building height for the Medical Office Building shall be eighty-five (85) feet. The maximum height of any freestanding parking structure shall be forty-one (41) feet (two (2) stories of parking above ground floor retail, with rooftop parking allowed).

B. In the D-KP-2 Zone, the maximum height for the new hospital tower shall be two hundred ten (210) feet.

C. In the D-KP-3 Zone, the maximum height of new buildings (not including parking structures) shall be seventy (70) feet (five (5) stories at fourteen (14) feet per story). Parking structures shall be limited to a maximum of fifty-three (53) feet. In the D-KP-3 Zone, all structures shall be set back from the adjacent RM-3 Zone on Cerrito Avenue, Howe Street, and 38th Street by a minimum of twelve (12) feet. No structure may exceed thirty (30) feet in height unless additional setbacks are provided equivalent to an additional horizontal distance of one foot beyond the 12-foot setback for each foot that the structure extends above thirty (30) feet, up to the maximum allowable height.

D. Maximum height for D-KP-4 is equivalent to RU-3 requirements.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.120 Parking and loading areas.

A. Parking shall be determined on a D-KP District-wide basis and the amount, location and distribution of parking shall be determined as part of the Design Review Process. The parking demand study prepared for adoption of the D-KP district determined that upon completion of new construction to the full 1.78 million (1,780,000) square foot total, approximately three thousand five hundred eighty-four (3,584) parking spaces will be required. The actual amount of required parking shall be imposed as a condition of approval based on the current or updated parking study and the adopted Transportation Demand Management program, as approved by the City. The requirements set forth herein may be modified during the design review process, upon a finding that the modification is supported

by an updated parking analysis prepared by a professional traffic engineer, as approved by the City.

B. Unless otherwise permitted pursuant to a conditional use permit, deliveries that rely on the use of loading areas or driveways within two hundred (200) feet of a residentially zoned property shall be limited to the hours of 5:00 a.m. to 7:00 p.m.

(Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.130 Signs.

A. If a comprehensive Sign program is adopted as part of the Kaiser Permanente Oakland Medical Center Master Plan, the provisions of the comprehensive Sign program shall govern and shall supersede the provisions of Chapter 17.104.

B. Design Review approval is not required for temporary or development signs; and periodic changes of copy.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.140 Landscaping, buffering and screening.

A landscaping, buffering and screening plan shall be submitted for every project that requires approval pursuant to the design review process. The landscaping, buffering and screening plan shall contain the following:

1. Landscaping that is consistent with the Kaiser Permanente Oakland Medical Center Master Plan with an automatic system of irrigation for all private landscaping shown in the plan.
2. Landscape treatment of any interface with a residentially zoned property including a buffering and screening plan.
3. The location of parking, loading and storage areas, and exterior lighting including a buffering and screening plan.

(Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.150 Demolition.

Consistent with Oakland Municipal Code Section 15.36.070, during the Kaiser Permanente Oakland Medical Center Master Plan approval process, the City Council may identify specific buildings for which a demolition permit may be issued without first obtaining a building permit because the issue of demolition was expressly considered as part of the Kaiser Permanente Oakland Medical Center Master Plan approval process. These buildings shall be listed in the Kaiser Permanente Oakland Medical Center Master Plan as eligible for demolition prior to the issuance of building permits.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.101D.160 Skybridges.

A. One pedestrian skybridge over the public right-of-way of Broadway, adjacent to Highway 580, (connecting D-KP-1 and D-KP-2) is permitted in the D-KP Zone and no conditional use

permit shall be required pursuant to Section 17.102.200. Authority pursuant to Chapter 12.08 is also granted for this pedestrian skybridge. While the exact location has not yet been determined, the general location of the skybridge is shown in the Kaiser Permanente Oakland Medical Center Master Plan. The design and final location will be determined during the Design Review Process.

B. No other skybridge over Broadway shall be permitted.

C. The other proposed pedestrian skybridges over the public right-of-way on MacArthur Boulevard is not needed until the completion of Phase 3 of the project (D-KP-3 Zone). Design Review for Phase 2 should consider means to ensure that a choice of skybridge versus tunnel versus surface street crossings at this location is preserved. The need for and final design and final location of a potential MacArthur Boulevard skybridge versus tunnels or surface street crossings will be determined during the Design Review Process and pursuant to Conditional Use permits for Phase 3.

D. The Director of City Planning shall refer all Design Review processes regarding skybridges to the City Planning Commission for initial decision. An initial decision of the Commission shall become final ten (10) days after the date of decision unless appealed to the City Council in accordance with the procedures in Section 17.136.090.

(Ord. No. 12999, § 4(Exh. A), 3-16-2010)

Chapter 17.101E D-CE CENTRAL ESTUARY DISTRICT ZONES REGULATIONS

Sections:

17.101E.010 Title, intent, and description.

17.101E.020 Required design review.

17.101E.030 Permitted and conditionally permitted activities.

17.101E.040 Permitted and conditionally permitted facilities.

17.101E.050 Property development standards.

17.101E.060 Permitted frontage types.

17.101E.070 Special regulations for Work/Live units.

17.101E.080 Special Regulations for Live/Work Units in the D-CE-3 and D-CE-4 Zones.

17.101E.090 Special Regulations for Mini-lot and Planned Unit Developments.

17.101E.100 Special Regulations for Home Occupation in the D-CE-3 Zone.

17.101E.110 Special Parking Regulations for the D-CE Zones.

17.101E.112 Other zoning provisions.

17.101E.010 Title, intent, and description.

A. **Title and Intent.** The provisions of this Chapter shall be known as the D-CE Central Estuary District Zones Regulations. The intent of the Central Estuary District (D-CE) Zones is to:

1. Implement the Central Estuary Area Plan (CEAP) in the Central Estuary District;
2. Preserve and enhance opportunities for business and employment development in uses that can benefit from proximity to existing commercial, industrial and mixed use facilities in the area;
3. Encourage the creation of mixed-use districts that integrate various combinations of residential, industrial, commercial, public open space and civic uses;
4. Establish development standards that allow Residential, Industrial, Commercial, public Open Space and Civic Activities to compatibly co-exist;
5. Provide convenient access to public open space and the waterfront;
6. Improve access to the waterfront and recreational opportunities along the waterfront, including boat launches and marinas;
7. Encourage quality and variety in building and landscape design, as well as compatibility in use and form;
8. Encourage development that is respectful of the environmental qualities that the area has to offer;

9. Provide a framework of development standards that takes into account the scale, massing and context of the surrounding community;
10. Provide a set of procedures and practices to review and consider future design of new building construction; and
11. Preserve and enhance distinct neighborhoods in the Central Estuary District.

B. **Description of Zones.** This Chapter establishes land use regulations for the following six (6) zones:

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

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

17.101E.020 Required design review.

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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. In addition to the design review criteria listed in Chapter 17.136, conformance with the design review guidelines in the "Design Guidelines for the Central Estuary" is required for any proposal in the D-CE Zones subject to the design review procedure in Chapter 17.136.

C. Where there is a conflict between the design review criteria contained in Chapter 17.136 and the design review guidelines contained in the "Design Guideline for the Central Estuary", the design objectives in the "Design Guidelines for the Central Estuary" shall prevail.

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

17.101E.030 Permitted and conditionally permitted activities.

For the purposes of this Chapter only, the following definition is added as an Activity. Definitions for the other Activities listed in Table 17.101E.01 are contained in the Oakland Planning Code Chapter 17.10.

A. Definitions.

1. **Boat and Marine-Related Sales, Rental, Repair and Servicing Activities** include the sale, rental, leasing and incidental cleaning, servicing, and repair of boats and other vehicles and facilities associated with water- and marine-based travel and movement. This classification also includes activities associated with docks and marinas where boats and ships are anchored, moored, rented, sold or serviced.

Table 17.101E.01 lists the permitted, conditionally permitted, and prohibited activities in the D-CE Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.10.040.

Table 17.101E.01: Permitted and Conditionally Permitted Activities

Activities	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Residential Activities							
Permanent	—	—	P	P	—	—	
Residential Care	—	—	P(L1)	P(L1)	—	—	17.103.010
Supportive Housing	—	—	P	P	—	—	
Transitional Housing	—	—	P	P	—	—	

Activities	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Emergency Shelter	—	—	C(L1)	C(L1)	—	—	17.103.010
Semi-Transient	—	—	C	C	—	—	17.103.010
Bed and Breakfast	—	—	P	—	—	—	17.10.125
Civic Activities							
Essential Service	P(L18)	P(L18)	P(L22)	P(L22)	P(L18)	P(L18)	
Limited Child-Care Activities	—	—	P	—	—	—	
Community Assembly	—	—	P(L2)	—	C	—	
Recreational Assembly	P	C	P(L2)	C	C	—	
Community Education	P	P	C	C	C	—	
Nonassembly Cultural	P	P	P(L3)	P(L3)	C	—	
Administrative	P	P	P(L3)	P(L3)	C	—	
Health Care	—	—	C	C	—	—	
Special Health Care	—	—	—	—	—	—	
Utility and Vehicular	C	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	C	
Commercial Activities							
General Food Sales	P	P	P(L4)	P(L4)	P(L5)	P(L5)	
Full Service Restaurants	P	P	P(L4)	P(L4)	P(L5)	P(L5)	
Limited Service Restaurant and Cafe	P	P	P(L4)	P(L4)	P(L5)	P(L5)	
Fast-Food Restaurant	—	C	—	—	C	—	17.103.030 and 8.09
Convenience Market	C	C	C	C	—	—	17.103.030
Alcoholic Beverage Sales	C	C	C	C	C	—	17.103.030 and 17.114.030

Activities	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Mechanical or Electronic Games	C	C	C	C	—	—	
Medical Service	—	—	—	—	—	—	
General Retail Sales	P	P	P(L5)	P(L5)	P(L5)	—(L6)	
Large-Scale Combined Retail and Grocery Sales	—	C	—	—	—	—	
Consumer Service	P	P	P	P	P	—	
Consultative and Financial Service	P	P	P(L3)	P	C	—	
Check Cashier and Check Cashing	—	C	—	—	—	—	17.103.040
Consumer Cleaning and Repair Service	—	P	C	C	C	—	
Consumer Dry Cleaning Plant	—	C	—	—	C	C	
Group Assembly	C	C	C	C	C	C(L8)	
Personal Instruction and Improvement Services	P	P	C	C	C	C(L8)	
Administrative	P	P	P(L3)	P(L3)	P	—(L9)	
Business, Communication, and Media Services	P	P	P	P	P	P	
Broadcasting and Recording Services	P	P	P	P	P	P	
Research Service	P	P	P(L3)(L10)	P(L3)(L10)	P	P	
General Wholesale Sales	—	P(L7)	P(L2)	P(L3)	P(L3)(L11)	P	
Transient Habitation	C	C	C	C	—	—	17.103.050
Building Material Sales	—	P	P(L2)	P(L12)	P	—	
Boat and Marine-Related Sales, Rental, Repair and Servicing	P	—	—	—	—	C	

Activities	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Automobile and Other Light Vehicle Sales and Rental	—	C	—	—	—	C	
Automobile and Other Light Vehicle Gas Station and Servicing	—	C	—	—	C	P(L14)	
Automobile and Other Light Vehicle Repair and Cleaning	—	C(L13)	—	—	C	P(L14)	
Taxi and Light Fleet-Based Services	—	—	—	—	—	C	
Automotive Fee Parking	—	—	—	C	C	C	
Animal Boarding	—	C	C	C	—	—	
Animal Care	—	P	C	C	—	—	
Undertaking Service	—	—	—	—	C	C	
Industrial Activities							
Custom Manufacturing	C	P	P(L3)	P(L3)	P	P	17.120
Light Manufacturing	C	P	P(L2)(L10)	P(L3)(L10)	P	P	17.120
General Manufacturing	—	—	—	—	P	P	
Heavy/High Impact	—	—	—	—	—	C	
Research and Development	P(L2)	P(L3)(L10)	P(L3)(L10)	P(L3)(L10)	P	P	
Construction Operations	—	—	—	C	P (L14)	P (L14)	
Warehousing, Storage, and Distribution-Related:							
A. General Warehousing, Storage and Distribution	C	—	P(L2)	P(L3)	P	P	
B. General Outdoor Storage	—	—	—	—	P(L14)	P(L14)	
C. Self- or Mini-Storage	—	—	—	C	C	—	

Activities	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
D. Container Storage	—	—	—	—	P(L14)	P(L14)	
E. Salvage/Junk Yards	—	—	—	—	—	C	
Regional Freight Transportation-Related:							
A. Seaport	—	—	—	—	—	C	
B. Rail Yard	—	—	—	—	C	C	
Trucking and Truck-Related:							
A. Freight/Truck Terminal	—	—	—	—	P(L14)	P(L14)	
B. Truck Yard	—	—	—	—	C	P(L14)	
C. Truck Weigh Stations	—	—	—	—	P	P(L14)	
D. Truck & Other Heavy Vehicle Sales, Rental & Leasing	—	—	—	—	P(L14)	P(L14)	
E. Truck & Other Heavy Vehicle Service, Repair, and Refueling	—	—	—	—	P(L14)	P(L14)	
Recycling and Waste-Related:							
A. Satellite Recycling Collection Centers	—	P(L15)	P(L15)	P(L15)	P(L15)	P(L15)	17.10.040
B. Primary Recycling Collection Centers	—	—	—	—	—	C(L16)	17.73.035
Hazardous Materials Production, Storage, and Waste Management-Related:							
A. Small Scale Transfer and Storage	—	—	—	—	C	C(L14)(L17)	
B. Industrial Transfer/Storage	—	—	—	—	—	C(L14)(L17)	
C. Residuals Repositories	—	—	—	—	—	C(L14)(L17)	
D. Oil and Gas Storage	—	—	—	—	—	C(L14)(L17)	
Agriculture and Extractive Activities							

Activities	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Limited Agriculture	C(L19)	C(L19)	P(L20)	P(L20)	C(L19)	C(L19)	
Extensive Agriculture	C(L21)	C(L21)	C(L21)	C(L21)	C(L21)	C(L21)	
Plant Nursery	—	C	C	C	P	P	
Mining and Quarrying	—	—	—	—	—	—	
Accessory off-street parking serving prohibited activities	C	C	C	C	C	C	17.116.175
Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof.	C	C	C	C	C	C	17.102.110

Limitations on Table 17.101E.01:

L1. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. 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 for the CUP procedure).

L3. 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 for the CUP procedure).

L4. The total floor area devoted to a grocery store shall only exceed twenty thousand (20,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). 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 for the CUP procedure).

L5. These activities are only allowed on the ground floor of a building. Except in D-CE-4, the total floor area devoted to these activities by any single establishment may only exceed five thousand (5,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L6. Retail is only allowed as an accessory use per Section 17.10.040.

L7. The total floor area devoted to these activities by a single establishment shall not exceed five thousand (5,000) square feet.

L8. Entertainment, educational and athletic services are not permitted.

L9. Administrative activities accessory to an existing Industrial Activity are limited to twenty percent (20%) of floor area in D-CE-6.

L10. 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 for the CUP procedure).

L11. These activities are only allowed in the Tidewater South area of D-CE-5, not permitted in any other areas of D-CE-5.

L12. This activity is 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 more than twenty-five thousand (25,000) square feet, or covers more than twenty-five thousand (25,000) square feet of floor area.

L13. This activity is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and that all repair and servicing is performed in an enclosed building.

L14. A Conditional Use Permit is required if located within three hundred (300) feet of: a) the estuary shoreline; b) the D-CE-3 Zone; or c) any Open Space Zone (see Chapter 17.134 for the CUP procedure). This activity is permitted if beyond three hundred (300) feet.

L15. Permitted within a grocery store or other large associated development, but if it is a stand-alone collector center then a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) is required. If the recycling collection is placed within the parking lot the overall parking requirements for the principal activity shall still be met.

L16. A Conditional Use Permit (see Chapter 17.134 for the CUP procedure) is required for this activity, but is not permitted within three hundred (300) feet of: a) the estuary shoreline; b) the D-CE-1, D-CE-2, D-CE-3, or D-CE-4 Zone; or c) any Open Space Zone. All special regulations for primary collection centers in the Industrial Zones must be met as listed in Section 17.73.035.

L17. This activity is only permitted 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 all of the following additional use permit criteria:

1. That the project is not detrimental to the public health, safety, or general welfare of the community;

2. That the project is or will be adequately served by roads and other public or private service facilities;

3. That the project is consistent with the regional fair-share facility needs assessment and siting criteria established in the Alameda County Hazardous Waste Management Plan;

4. That the cumulative effects of locating the project within the proposed area have been analyzed and where applicable, measures that minimize adverse impacts to the surrounding community have been incorporated into the project.

L18. Community Gardens and Botanical Gardens are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

L19. Limited Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;

2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and

3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

L20. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any on-site sales occur no more than two (2) times per week between the hours of 8:00 am and 9:00 pm in a temporary movable structure not exceeding two hundred (200) square feet in size; conditionally permitted if the activity is larger in either land area, or in sales area, frequency, or hours of operation (see Chapter 17.134 for the CUP procedure).

L21. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

L22. Community Gardens are permitted outright if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. The cultivation of animals, animal products and/or livestock production, except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

17.101E.040 Permitted and conditionally permitted facilities.

For the purposes of this Chapter only, the following definitions are added as facility types. Definitions for the other facility types listed in Table 17.101E.02 are contained in the Oakland Planning Code Chapter 17.10.

A. Definitions.

1. **"Live/Work"** means a room or suite of rooms that are internally connected maintaining a common household that includes: (a) cooking space and sanitary

facilities that satisfy the provisions of other applicable codes; and (b) adequate working space reserved for, and regularly used by, one or more persons residing therein. A Live/Work unit is intended to accommodate both Residential and Nonresidential Activities.

2. **"Work/Live"** means a room or suite of rooms that are internally connected maintaining a common household that includes: (a) cooking space and sanitary facilities that satisfy the provisions of other applicable codes, and (b) adequate working space reserved for, and regularly used by, one or more persons residing therein. A Work/Live unit is intended to accommodate a primary Nonresidential Activity with an accessory residential component.

Table 17.101E.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-CE Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

Table 17.101E.02: Permitted and Conditionally Permitted Facilities

Facilities	**Zones**						**Additional Regulations**
	D-CE-1	**D-CE-2**	**D-CE-3**	**D-CE-4**	**D-CE-5**	**D-CE-6**	
Residential Facilities							
One-Family Dwelling	—(L1)	—(L1)	P	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	P	—(L1)	—(L1)	—(L1)	17.103.080
Two-Family Dwelling	—(L1)	—(L1)	P	—(L1)	—(L1)	—(L1)	
Multifamily Dwelling	—(L1)	—(L1)	P	P	—(L1)	—(L1)	
Rooming House	—(L1)	—(L1)	P	P	—(L1)	—(L1)	
Mobile Home	—	—	—	—	—	—	
Live/Work	—	—	P	P	—	—	
Nonresidential Facilities							
Enclosed Nonresidential	P	P	P	P	P	P	
Open Nonresidential	P	P	C(L4)	C(L4)	P	P	
Work/Live	—	—	P	P	C	—	
Sidewalk Cafe	P	P	P	P	C	—	17.103.090
Drive-In	C	C	—	C	—	—	
Drive-Through	C	C	—	C(L2)	C	C	17.103.100
Telecommunications Facilities							

Facilities	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Micro Telecommunications	C	P(L3)	C	C	P(L3)	P(L3)	17.128
Mini Telecommunications	C	P(L3)	C	C	P(L3)	P(L3)	17.128
Macro Telecommunications	C	C	C	C	C	P(L3)	17.128
Monopole Telecommunications	C	C	C	C	C	P(L3)	17.128
Tower Telecommunications	—	—	—	—	—	P(L3)	17.128
Sign Facilities							
Residential Signs	—	—	P	P	—	—	17.104
Special Signs	P	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	—	17.104
Realty Signs	P	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	P	17.104
Business Signs	P	P	P	P	P	P	17.104
Advertising Signs	—	—	—	—	—	—	17.104

Limitations on Table 17.101E.02:

L1. See Chapter 17.114 - Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit may be permitted when there is no more than one (1) existing Primary Unit on a lot, subject to the provisions of Section 17.103.080.

L2. Drive through facilities are not allowed to locate between the front property line and the building.

L3. See Section 17.128.025 for restrictions on Telecommunication Facilities near residential or D-CE-3 and D-CE-4 Zones.

L4. No Conditional Use Permit (CUP) is required for Open Nonresidential Facilities to accommodate Civic Activities, Limited Agriculture, seasonal sales, or special events.

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

17.101E.050 Property development standards.

A. **Zone Specific Standards.** Table 17.101E.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified zone.

Table 17.101E.03 Property Development Standards

Development Standards	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Minimum Lot Dimensions							
Lot Width mean	25 ft.	25 ft.	35 ft.	35 ft.	25 ft.	25 ft.	1
Frontage	25 ft.	25 ft.	35 ft.	35 ft.	25 ft.	25 ft.	1
Lot area	4,000 sf.	4,000 sf.	4,000 sf.	4,000 sf.	10,000 sf.	10,000 sf.	1
Minimum/Maximum Setbacks See also "Design Guidelines for the Central Estuary" Section 3.3.							
Minimum front	0 ft.	0 ft.	10 ft.	10 ft.	5 ft.	5 ft.	2
Minimum interior side	0 ft.	0 ft.	4 ft.	0 ft.	0 ft.	0 ft.	2
Minimum street side of a corner lot	0 ft.	0 ft.	4 ft.	5 ft.	5 ft.	5 ft.	2
Rear (residential facilities)	N/A	N/A	10 ft.	10 ft.	N/A	N/A	3
Rear (nonresidential facilities)	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	2
Reduced Setbacks for Smaller Lots	See Table 17.101E.04 for reduced setbacks for smaller lots						
Height Regulations See also "Design Guidelines for the Central Estuary" Section 4.2.							
Maximum height	45 ft.	85 ft.	45/55 ft.	75 ft.	85 ft.	N/A	4, 5, 6, 7
Fence heights & other regulations	See Chapter 17.108.140 for fences, dense hedges, barriers, & free standing walls; and Design Guidelines for the Central Estuary Section 3.8.						
Minimum fence height in yards adjacent to open space zones	See Chapter 17.108.140 for fences, dense hedges, barriers, & free standing walls; and "Design Guidelines for the Central Estuary" Section 3.8.				8 ft.	8 ft.	8
Maximum fence height adjacent to Open Space Zones	8 ft.	N/A	8 ft.	8 ft.	12 ft.	12 ft.	8

Development Standards	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Maximum Residential Density (square feet of lot area required per dwelling unit) See also "Design Guidelines for the Central Estuary" Section 4.3.							
Regular Units	N/A	N/A	700	700	N/A	N/A	9, 10
Rooming Units	N/A	N/A	350	350	N/A	N/A	9, 10
Maximum Nonresidential FAR - See Design Guidelines Section 4.3.	2.0	3.0	3.0	3.0	3.0	2.0	10
Minimum Usable Open Space See also "Design Guidelines for the Central Estuary" Section 3.10.							
Group Usable Open Space per regular unit	N/A	N/A	150 sf.	100 sf.	N/A	N/A	11
Group usable open space per regular unit when private open space substituted	N/A	N/A	30 sf.	20 sf.	N/A	N/A	11
Group usable open space per rooming unit	N/A	N/A	75 sf.	50 sf.	N/A	N/A	11
Group usable open space per rooming unit when private open space is substituted	N/A	N/A	15 sf.	10 sf.	N/A	N/A	11
Minimum Parking and Loading Requirements	See Chapter 17.116 for loading and automobile parking; Chapter 17.117 for bicycle parking; and "Design Guidelines for the Central Estuary" Sections 3.2, 3.5, 3.6 and 3.8. For Boat, and Marine Related Sales, Rental, Repair and Servicing Activities, see Section 17.101E.110						12, 19
Courtyard Regulations	N/A	N/A	See Section 17.108.120	See Section 17.108.120	N/A	N/A	
Landscaping Regulations See also "Design Guidelines for the Central Estuary" Section 3.8 and 5							

Development Standards	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Site Landscaping (including parking lot)	See Chapters 17.110, and 17.124 for buffering, landscaping and screening standards.						13, 14, 15
Site landscaping (% of lot area)	See Chapters 17.110, and 17.124				5%	5%	14
Parking lot landscaping (% of lot area)	See Chapters 17.110, and 17.124				10%	10%	14
Driveway and Site Access Regulations See also "Design Guidelines for the Central Estuary" Sections 3.4 and 3.7.							
Minimum Distance of driveway or site access from any Residential or Open Space Zone boundary	See Section 17.116.210 Driveways and Maneuvering Aisles for Parking				50 ft.	50 ft.	16
Driveway Width Maximum	See Section 17.116.210 Driveways and Maneuvering Aisles for Parking				35 ft.	35 ft.	17
Pedestrian Walkway	N/A	N/A	N/A	N/A	Required	Required	18
Frontage Type Standards	See Table 17.101E.05. See also "Design Guidelines for the Central Estuary" Section 4.1.						

Additional Regulations for Table 17.101E.03:

1. See Table 17.101E.04 for reduced setbacks for smaller lots, and Sections 17.106.010 and 17.106.020 for exceptions to lot area, lot width mean, and street frontage regulations.

2. See also Section 17.108.130 for allowed projections into setbacks, and see the "Design Guidelines for the Central Estuary", Sections 3.3 and 4.1.

3. In the D-CE-3 and D-CE-4 Zones, see Section 17.108.080 for the required interior side and rear yard setbacks on a lot containing two (2) or more living units and opposite a legally required living room window. Wherever a rear lot line abuts an alley, one-half (½) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

4. Buildings shall have a thirty (30) foot maximum height at the setback line associated with any lot line that directly abuts a lot with a residential building. This maximum height increases one (1) foot for every foot away from the applicable setback line if the residential building on the abutting lot has a height of thirty (30) feet or less. If the residential building on the abutting lot

has a height of greater than thirty (30) feet, the maximum height increases four (4) feet for every foot away from the applicable setback line. An increase in allowable height resulting from construction away from a setback line shall not result in a height greater than the maximum height allowed in the zone. See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

5. In the D-CE-3 Zone, the fifty-five (55) foot height maximum may only be achieved if the proposed building is scaled to a context that will be compatible with adjacent uses. See the "Design Guidelines for the Central Estuary", Section 3 and 4.

6. In the D-CE-3 Zone, the maximum heights may be exceeded in the following situations: Structures that are either: 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 one hundred twenty-five (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). See also the "Design Guidelines for the Central Estuary", Section 3 and 4.

7. In the D-CE-3 Zone, 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 Oakland Fire Code regulations. Sites with outdoor storage shall be screened in conformance to the "Design Guidelines for the Central Estuary". In the D-CE-5 and D-CE-6 Zones, the height of outdoor materials stored within the required side or rear setback shall be no higher than eight (8) feet. However, outdoor materials may be stored up to ten (10) feet if they are no higher than a solid masonry wall that is located between the materials and the property line associated with the required setback in which the materials are located. In this case, buffer planting must be installed between the storage area and the masonry wall. The aisle width and material composition of all stored material, and the ultimate height of all outdoor materials stored beyond the required setback shall be according to the Fire Code regulations.

8. In the D-CE-5 and D-CE-6 Zones, this regulation applies to all property lines which directly abut a Residential or Open Space Zone, except those fronting a public street. Buffering requirements also apply to: a) new development; or expansion of an industrial or commercial building by more than twenty percent (20%) of total floor area, or b) addition or expansion of an existing building so that the lot coverage exceeds thirty-five percent (35%), whichever is greatest. The planting requirement may be reduced but not eliminated if appropriate and approved by the Planning Director. The twelve (12) foot maximum fence height may only be achieved with additional screening. The fence or wall design shall be approved by the Planning Director. See also "Design Guidelines for the Central Estuary", Section 3.8 and 4.1.

9. In the D-CE-3 and D-CE-4 Zones, see Chapter 17.107 and Section 17.106.060 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one (1) Primary Unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms. In the D-CE-3 Zone, new construction on a vacant lot that is greater than five thousand (5,000) square feet shall only result in a total of one (1) unit on the lot upon the

granting of a conditional use permit (see Chapter 17.134 for the conditional use permit process). This requirement does not apply to the expansion of the floor area or other alteration of an existing Single Family Dwelling.

10. No portion of lot area used to meet the residential density requirements shall be used as a basis for computing the maximum nonresidential FAR unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.

11. In the D-CE-3 and D-CE-4 Zones, usable open space is not required for Work/Live, and is only required on lots with two (2) Residential or Live/Work units or more, and not required for a One-Family Dwelling with Secondary Unit. Each one (1) square foot of private usable open space equals two (2) 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, provided the Frontage Type design guidelines are followed (see Section 4.1 of the "Design Guidelines for the Central Estuary").

12. In the D-CE-5 Zone, parking for new development shall be located at the rear of the site or at the side of the building except for drop-off areas, which may be at the entry, except where access to existing loading docks and/or rail lines is required. New truck loading docks shall not be located closer than fifty (50) feet from property line as measured from the subject dock to any property boundary if located within three hundred (300) feet of a Residential Zone, unless such a distance requirement will impede direct access to a rail line. Truck docks shall be located such that trucks do not encroach into the public right-of-way. All existing loading docks are not subject to this requirement.

13. Any new principal residential building or addition over five hundred (500) square feet requires submittal and approval of a landscaping and buffering plan for the entire site, excluding Secondary Units of five hundred (500) square feet or less. The landscaping and buffering plan shall contain the following:

a. Landscaping and buffering that is consistent with the "Design Guidelines for the Central Estuary";

b. An automatic system of irrigation for all landscaping shown in the plan;

c. A minimum of one (1) 15-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 (6½) feet, the trees shall be street trees to the satisfaction of the City's Tree Division.

d. At least one (1) 15-gallon tree in the parking lot for every six (6) parking spaces for projects that involve new or existing parking lots of three thousand (3,000) square feet or greater.

e. 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.

14. In the D-CE-5 and D-CE-6 Zones, the following landscape requirements apply:

a. Submittal and approval of a landscape plan for the entire site and street frontage is required for the establishment of a new Nonresidential Facility and for additions to Nonresidential Facilities of over one thousand (1,000) square feet (see Section 17.124.025). A minimum of five percent (5%) of the lot area shall be landscaped. Landscaping and buffering must be consistent with guidelines in the "Design Guidelines for the Central Estuary", Section 3.8.

b. Required parking lot landscaping: For all lots associated with construction of more than twenty-five thousand (25,000) square feet of new floor area, a minimum of ten percent (10%) of parking lot area shall be landscaped accompanied by an irrigation system that is permanent, below grade and activated by automatic timing controls; permeable surfacing in lieu of irrigated landscaping may be provided if approved through design review procedure in Chapter 17.136. Shade trees shall be provided at a ratio of one (1) tree for every ten (10) spaces throughout the parking lot. Parking lots located adjacent to a public right-of-way shall include screening consistent with the landscaping and buffering guidelines in the "Design Guidelines for the Central Estuary".

15. For all Nonresidential projects over one thousand (1,000) square feet, street trees are required. In addition to the general landscaping requirements set forth above, a minimum of one (1) 15-gallon tree, or substantially equivalent landscaping consistent with City policy and as approved by the Director of City Planning, shall be provided for every twenty (20) feet of street frontage or portion thereof and, if a curbside planting strip exists, for every twenty-five (25) feet of street frontage. 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 (6½) feet, the trees to be provided shall include street trees to the satisfaction of the Tree Division.

16. In the D-CE-5 and D-CE-6 Zones, the site and driveway access requirement applies to new development; or expansion of industrial or commercial buildings by more than twenty percent (20%) floor area; or b) addition or expansion of an existing building so that the building to land ratio exceeds thirty-five percent (35%), whichever is greater; and all new driveway projects. This requirement may be waived administratively if such distance requirement will impede direct access to a rail line. Also applicable are the provisions of Chapter 17.116.

17. In the D-CE-5 and D-CE-6 Zones, a driveway shall not exceed thirty-five (35) feet in width without obtaining approval from the Engineering Department of Building Services through the Driveway Appeal Process. Also applicable are the provisions of Chapter 17.116.

18. In the D-CE-5 and D-CE-6 Zones, a clearly defined and lighted walkway, at least four (4) feet wide, shall be provided between the main building entry and a public sidewalk for all new development. On-site walkways shall be separated from on-site automobile circulation and parking areas by landscaping, a change in paving material, or a change in elevation. See the "Design Guidelines for the Central Estuary", Section 3.4, 3.7 and 5.

19. Unless otherwise specified in Section 17.103.080, one (1) parking space for the Secondary Unit is required in addition to any required parking spaces for the Primary Unit. Additional regulations that apply to Secondary Units are provided in Section 17.103.080.

B. **Reduced Setbacks for Smaller Lots.** Table 17.101E.04 below prescribes reduced setback standards for lots less than four thousand (4,000) square feet. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

Table 17.101E.04 Reduced Setbacks for Smaller Lots

Regulation	Lot Size	Additional Regulations
	≤3,000 sf. or ≤35 feet wide	
Minimum Setbacks		
Minimum interior side	3 ft.	1
Minimum street side	3 ft.	1
Rear	10 ft.	1

Additional Regulations for Table 17.101E.04:

1. See Section 17.108.130 for allowed projections into setbacks.

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

17.101E.060 Permitted frontage types.

A. Applicability. The frontage types described below are only applicable to the Central Estuary Zones.

B. Definitions. (See the "Design Guidelines for the Central Estuary", Section 4.1) The following definitions apply to this Chapter only:

1. **Public Frontage -** The Public Frontage type accommodates very public uses, where interaction with the street and open spaces is desirable and welcomed, requiring little or no transition between the two. The Public Frontage is fully open to the street with large amounts of glazing. Windows may go from ground floor to ceiling and may be operable to promote a close indoor/outdoor relationship. Entries and windows are frequent, creating an inviting visual and physical connection with activity along the street. This frontage type is often associated with shopfronts and dining establishments. Live/Work facilities where retail shopfronts are a component may also be associated with this frontage type.

2. **Semi-Public Frontage -** The Semi-Public Frontage is defined by a moderate amount of permeability. This frontage type requires some transition from the public realm, which may be in the form of a landscaped setback, vertical separation or less transparency. This frontage type maintains a fair amount of glazing, though in a configuration that offers more privacy to interior uses that require some separation from the street, such as higher window sills, than the Public Frontage type. Building access may be less frequent than the Public Frontage or defined by a singular entry lobby and though generally still open and welcoming, may be somewhat more restricted than the Public Frontage. Entries may be characterized by porches, stoops, terraces, or lobbies. It is most often associated with employment uses, though it is flexible enough to accommodate Work/Live, warehousing, distribution and manufacturing, as it allows ample amounts of natural light balanced with a greater sense of privacy and buffer from street activity.

3. **Private Frontage -** This frontage requires the most privacy and buffering between interior uses and adjacent streets, the waterfront, public plazas, and open spaces. A

transition zone is necessary to provide a clear distinction between public and private space. This frontage type is closely associated with residential and Live/Work facilities.

4. **Service Frontage -** Service Frontages are defined by large expanses of blank walls with few doors and windows, mostly broken by garage doors and truck bays. Building entries are minimal with few pedestrian amenities and are not elaborately detailed. This frontage is associated with warehousing, distribution, and sometimes manufacturing businesses. This frontage is also utilized by large-format, warehouse style retailers. This frontage is commonly found in the Central Estuary area, but should be avoided or used sparingly along public spaces.

C. Table 17.101E.05 below prescribes development standards specific to frontage types allowed. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. Intent, guidance and application of building Frontage Types can be found in the "Design Guidelines for the Central Estuary."

Table 17.101E.05: Frontage Type Standards

See "Design Guidelines for the Central Estuary" Section 4.1.

	Blank Wall (maximum length in feet)		Transparency min. glazed area (percent of building facade)	Access (spacing in feet or per unit)	Additional Regulations
	Primary lot frontage	Secondary lot frontage			
Public Frontage	10 ft.	15 ft.	50%	50 ft. max.	1, 2
Semi-Public Frontage	20 ft.	20 ft.	40%	75 ft. max.	1, 2
Private Frontage	25 ft.	25 ft.	N/A	Min. 1 per unit or lobby	1, 2
Service Frontage	35 ft.	35 ft.	N/A	Min. 1 per primary lot frontage	1, 2, 3

Additional Regulations for Table 17.101E.05:

1. Minimum glazed area is measured between two (2) feet and nine (9) feet above adjacent interior finished floor elevation.

2. Glazed garage doors and entry doors, transom windows and display windows may be counted toward minimum glazed area.

3. Not required to be interrupted by windows and doors, but shall incorporate other blank wall elements as described in the Facade Articulation (Section 4.7) and Building Frontage Types (Section 4.1) in the "Design Guidelines for the Central Estuary".

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

17.101E.070 Special regulations for Work/Live units.

A. Applicability.

1. Work/Live space shall be considered Commercially/ Industrially Oriented Joint Living and Working Quarters under the Building Code. Any building permit plans for the construction or establishment of Work/Live units shall: (1) clearly state that the proposal includes Commercially/Industrially Oriented Joint Living and Working Quarters, and (2) label the units intended to be these units as Commercially/ Industrially Oriented Joint Living and Working Quarters. This requirement is to assure the City applies building codes that allow Industrial Activities in Work/Live units in the Industrial Zones.

2. Work/Live units are Nonresidential Facilities and counted towards the nonresidential floor area ratio, not the residential density.

3. D-CE-3 and D-CE-4 Zones. A Work/Live unit in the D-CE-3 and D-CE-4 Zones must meet all applicable regulations contained in this Section. The D-CE-3 and D-CE-4 Zones regulations in this Section 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.

4. D-CE-5 Zone. A Work/Live unit in the D-CE-5 Zone must meet all applicable regulations contained in this Section. The D-CE-5 Zones regulations in this Section 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 for Work/Live units.

5. D-CE-1, D-CE-2, and D-CE-6 Zones. Work/Live units are not allowed in the D-CE-1, D-CE-2, or D-CE-6 Zones.

B. Definition. The following definitions apply to this Chapter only:

1. For purposes of Work/Live conversion, an "existing building" must be at least ten (10) years old and originally designed for industrial or commercial occupancy.

2. "Residential floor area" shall be considered areas containing bedrooms, sleeping areas, kitchen areas and bathrooms and hallways serving such areas.

3. "Nonresidential floor area" shall include floor areas designated for working.

C. **Regular design review required.** Establishment of a Work/Live unit shall only be permitted 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 Work/Live units in the Industrial Zones 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 units on the ground floor level of a building have a business presence on the street. This includes, but is not necessarily limited to, providing roll-up doors at the street or storefront style windows that allow interior space to be visible from 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;

3. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;
4. 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;
   d. Wide corridors for the movement of oversized items; and
   e. 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.

D. Table 17.101E.06 below prescribes special regulations for Work/Live units. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

"N/A" designates the regulation is not applicable to the specified zone.

Table 17.101E.06 Special Regulations for Work/Live Units

Development Standards	**Zones**						**Additional Regulations**
	D-CE-1	**D-CE-2**	**D-CE-3**	**D-CE-4**	**D-CE-5**	**D-CE-6**	
Activities Allowed							
Work/Live - new construction	—	—	P	P	—	—	
Work/Live - conversion of existing building	—	—	P	P	C	—	1
Activities allowed in a Work/Live unit	N/A	N/A	Same permitted and conditionally permitted activities as described in Section 17.101E.030	Same permitted and conditionally permitted activities as described in Section 17.101E.030	Same permitted and conditionally permitted activities as described in Section 17.101E.030	N/A	

Development Standards	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Minimum Size of Work/Live Unit	N/A	N/A	800 sf.	800 sf.	800 sf.	N/A	
Maximum Nonresidential FAR - See Design Guidelines Section 4.3.	N/A	N/A	3.0	3.0	N/A	N/A	2
Work/Live Unit Type Permitted See Table 17.101E.07 for definitions of the different types of Work/Live units.							
Type 1	—	—	P	P	C	—	3
Type 2	—	—	P	P	—	—	3
Minimum Usable Open Space - See also "Design Guidelines for the Central Estuary" Section 3.10.							
Group Usable Open Space per Work/Live unit	N/A	N/A	75 sf.	75 sf.	N/A	N/A	4
Parking and Loading Requirements - See also "Design Guidelines for the Central Estuary" Sections 3.2, 3.5, 3.6 and 3.8.							
Minimum parking spaces required per Work/Live unit	N/A	N/A	1	1	N/A	N/A	5
Unassigned visitor or employee parking space required per 5 Work/Live units	N/A	N/A	1	1	N/A	N/A	5
Required Bicycle Parking with Private Garage							
Short-term space per 20 Work/Live units	N/A	N/A	1	1	N/A	N/A	6
Minimum short-term spaces	N/A	N/A	2	2	N/A	N/A	6
Required Bicycle Parking without Private Garage							
Short-term space per 20	N/A	N/A	1	1	N/A	N/A	6

Development Standards	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Work/ Live units and long-term space per 4 units							
Minimum short-term spaces and minimum long-term spaces	N/A	N/A	2	2	N/A	N/A	6
Required Loading - See also "Design Guidelines for the Central Estuary" Section 3.6							
<25,000 sf.	N/A	N/A	No berth	No berth	N/A	N/A	7
25,000 - 69,999 sf.	N/A	N/A	1 berth	1 berth	N/A	N/A	7
70,000 - 130,000 sf.	N/A	N/A	2 berths	2 berths	N/A	N/A	7
Each additional 200,000 sf.	N/A	N/A	1 more berth	1 more berth	N/A	N/A	7
Public Entrance to Nonresidential Floor Area	N/A	N/A	Yes	Yes	Yes	N/A	8

Additional Regulations for Table 17.101E.06:

1. Use Permit Criteria. A conditional use permit for a Work/Live unit may 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 both of the following additional use permit criteria:

a. That the workers and others living there will not interfere with, nor impair, the purposes of the particular zone; and

b. That the workers and others living there will not be subject to unreasonable noise, odors, vibration or other potentially harmful environmental conditions.

2. Work/Live units are Nonresidential Facilities and counted towards the nonresidential floor area ratio, not the residential density.

3. See Table 17.101E.07 for definitions of the different types of Work/Live units.

4. Open space standards apply to new construction only. For conversion of existing buildings, maintaining existing open space is required to at least these minimum standards. All required usable open space shall meet the useable open space standards contained in Chapter 17.126, except that all useable open space may be provided on roof tops, podiums or other non-ground

level areas. Further, each square foot of private useable open space equals two (2) square feet towards the total usable open space requirement.

5. Parking standards apply to new construction only. For conversion of existing buildings, maintaining existing parking is required to at least these minimum standards. See Chapter 17.116 for other off-street parking and loading standards.

6. See Chapter 17.117 for other bicycle parking requirements.

7. See Chapter 17.116 for other loading standards.

8. Each D-CE-3 and D-CE-4 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.

E. Table 17.101E.07 below describes the different types of Work/Live units. Each new Work/Live unit shall qualify as at least one of the following Unit Types:

Table 17.101E.07 Definitions of the Different Types of Work/Live Units

Unit Type	Maximum residential floor area	Special requirements	Separation between residential and nonresidential floor area	Additional Regulations
Type 1	One-third	All remaining floor area to be used for the primary Nonresidential Activity.	Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines) or be separated by an interior wall.(see Note 2, below, for an exception for kitchens)	1, 2
Type 2	50 percent	1. At least 75% of the ground floor must be dedicated to nonresidential floor area; and 2. The ground floor must be directly accessible to the street and have a clearly designated business entrance.	Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines), or be separated by an interior wall. (see Note 2, below, for an exception for kitchens).	1, 2, 3

Additional Regulations for Table 17.101E.07:

1. All required plans for the creation of 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.

2. For Work/Live in D-CE-3 and D-CE-4 Zones, a kitchen may be open to non-residential floor area if the kitchen is adjacent to and directly accessible from residential floor area or stairs that

lead to residential floor area. In these kitchens not separated by an interior wall, the kitchen is only required to be separated from the nonresidential floor area by a partition that can be opened and closed.

3. Each D-CE-3 and D-CE-4 Work/Live unit shall contain no more than one (1) fully equipped kitchen. A D-CE-3 and D-CE-4 Work/Live unit may contain a second sink and counter to serve the nonresidential floor area.

_____

F. Additional Regulations for all Work/Live units.

1. Each Work/Live unit shall contain at least one (1) 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.

2. For any 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) recorded with the County of Alameda as a Notice of Limitation and in any other covenant, conditions and restrictions associated with a facility. This statement of disclosure shall contain the following acknowledgments:

   a. The Work/Live unit is in a Nonresidential Facility that allows Commercial and/or Industrial Activities that may generate odors, truck traffic, vibrations, noise and other impacts at levels and during hours that residents may find disturbing.

   b. Each Work/Live unit shall contain at least one (1) 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.

3. Each building with a 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 (9) by eleven (11) inches and lettering at least one-half (½) 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."

4. The development of Work/Live units in the Industrial Zones shall not be considered adding housing units to the City's rental supply, nor does it create "conversion rights" under the City's condominium conversion ordinance, O.M.C. Chapter 16.36, nor are the development standards for Work/Live units intended to be a circumvention of the requirements of the City's condominium conversion ordinance, O.M.C. Chapter 16.36.

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

17.101E.080 Special Regulations for Live/Work Units in the D-CE-3 and D-CE-4 Zones.

A. Applicability.

1. Live/Work units are Residential Facilities and 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 Live/Work units.

2. D-CE-3 and D-CE-4. A Live/Work unit in the D-CE-3 and D-CE-4 Zones must meet all applicable regulations contained in this Section. Regulations in this Section 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.

3. D-CE-1, D-CE-2, D-CE-5, and D-CE-6. Live/work units are not allowed in the D-CE-1, D-CE-2, D-CE-5, or D-CE-6 Zones.

B. Definition. The following definitions apply to this Chapter only: For purposes of Live/Work conversion, an "existing building" must be at least ten (10) years old and originally designed for industrial or commercial occupancy.

1. "Residential floor area" shall be considered areas containing bedrooms, sleeping areas, kitchen areas and bathrooms, and hallways serving such areas.

2. "Nonresidential floor area" shall be considered areas designated for working.

C. New Floor Area. (applies only to Live/Work conversions of existing buildings). New floor area may be created that is entirely within the existing building envelope; however, in no case shall the height, footprint, wall area or other aspect of the exterior of the building proposed for conversion be expanded to accommodate Live/Work area, except to allow dormers not exceeding the existing roof height and occupying no more than ten percent (10%) of the roof area, and incremental appurtenances such as elevator shafts, skylights, rooftop gardens or other facilities listed in Section 17.108.030

D. Regular Design Review Required. Regular design review approval for D-CE-3 and D-CE-4 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.

E. Table 17.101E.08 below prescribes special regulations for Live/Work units. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

"N/A" designates the regulation is not applicable to the specified zone.

Table 17.101E.08 Special Regulations for Live/Work Units in D-CE-3 and D-CE-4 Zones

Development Standards	Zones		Additional Regulations
	D-CE-3	D-CE-4	
Activities Allowed	Same permitted and conditionally permitted activities as described in Section 17.101E.030 and any that would qualify as a home occupation in a Residential Facility (see Section 17.101E.100)	Same permitted and conditionally permitted activities as described in Section 17.101E.030 and any that would qualify as a home occupation in a Residential Facility (see Section 17.101E.100)	
Maximum Residential Density	Same as Table 17.101E.03	Same as Table 17.101E.03	1
Minimum Usable Open Space See Design Guidelines Section 3.10.	Same as Table 17.101E.03	Same as Table 17.101E.03	
Parking and Loading Requirements See also "Design Guidelines for the Central Estuary" Sections 3.2, 3.5, 3.6 and 3.8.			
Minimum parking spaces required per Work/Live unit	1	1	2
Required Bicycle Parking with Private Garage			
Short-term spaces per 20 Live/Work units	1	1	3
Minimum short-term spaces	2	2	3
Required Bicycle Parking without Private Garage			
Short-term spaces per 20 Live/Work units and long-term spaces per 4 units	1	1	3
Minimum short-term spaces and minimum long-term spaces	2	2	3
Required Loading See also "Design Guidelines for the Central Estuary" Section 3.6			
>50,000 sf.	No berth	No berth	4
50,000 - 149,999 sf.	1 berth	1 berth	4

Development Standards	Zones		Additional Regulations
	D-CE-3	D-CE-4	
150,000 - 299,000 sf.	2 berths	2 berths	4
Each additional 300,000 sf.	1 more berth	1 more berth	4

Additional Regulations for Table 17.101E.08:

1. Live/Work units are Residential Facilities and shall be counted towards the residential density, not the nonresidential floor area ratio.

2. See Chapter 17.116 for other off-street parking and loading standards.

3. See Chapter 17.117 for other bicycle parking requirements.

4. See Chapter 17.116 for other 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 supersede the requirement for a conditional use permit stated in Section 17.116.220.

F. Additional Regulations for Live/Work units.

1. The amount of floor area in a D-CE-3 and D-CE-4 Live/Work unit designated as residential floor area is not restricted.
2. Any building permit plans for the construction of D-CE-3 and D-CE-4 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.
3. For any Live/Work unit in a D-CE-3 and D-CE-4 Zone, 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.
4. Each building with a Live/Work unit in the D-CE-3 and D-CE-4 Zone 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 (9) by eleven (11) inches and lettering at least one-half (½) 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."

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

17.101E.090 Special Regulations for Mini-lot and Planned Unit Developments.

A. **Mini-lot Developments.** In Mini-Lot Developments, certain regulations that apply to individual lots in the D-CE-3 and D-CE-4 Zones may be waived or modified when and as prescribed in Chapter 17.142.

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 D-CE-3 and D-CE-4 Zones, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

17.101E.100 Special Regulations for Home Occupation in the D-CE-3 Zone.

A. Purpose and Applicability. The special home occupation regulations described below shall apply in the D-CE-3 Zone only. The purpose of these regulations is to prescribe the expanded conditions under which nonresidential activities may be conducted in the D-CE-3 Zone when incidental to Residential Activities. These special home occupation regulations are intended to incentivize the preservation of historic homes in the Jingletown/Elmwood neighborhood, and to encourage more home-based artisan crafts in the district. The historic character-defining features of the structures must be maintained. For home occupation regulations in all other zones, see Planning Code Chapter 17.112.

B. Definitions.

1. A **"home occupation"** is an accessory activity of a nonresidential nature which is performed within a living unit, or within a garage or accessory structure attached or detached thereto and located on the lot as the living unit, or, for Limited Agricultural Activities and/or bee keeping, in an outdoor area on the same lot as a living unit by an occupant of the living unit and which is customarily incidental to the residential use of the living unit. A home occupation may include, but is not limited to, the handicraft or custom manufacture of products, Limited Agricultural Activities (unless the activities include mechanized farming equipment), bee keeping (unless the activities include more than three (3) hives), the conduct of an art or profession, the offering of a service, or the conduct of a business, subject to the provisions of this Chapter.

2. For the purpose of this Chapter**, Limited Agricultural Activities** include the cultivation on the premises of fruits, vegetables, plants, flowers, herbs, and/or ornamental plants intended to produce food, fibers, or other plant products for on- or off-site sale. This activity does not include the keeping, grazing, or feeding of animals, except for bee keeping involving no more than three (3) hives. Any on-site sales of agricultural products are limited to no more than four (4) times per year between the hours of 8:00 am and 9:00 pm in a temporary movable structure not exceeding two hundred (200) square feet in size.

3. For the purpose of this Chapter only, a **"bee keeping activity"** is the maintenance of honey bee colonies, commonly in hives, by one or more persons. A bee keeper keeps

bees in order to collect their honey and other products that the hive produces, to pollinate crops, or to produce bees for sale to other bee keepers.

C. Exclusions. The following activities shall not in any case qualify as home occupations:

1. Introductory service;
2. Teaching of organized classes totaling more than six (6) persons at a time;
3. Accommodation of more than three (3) paying guests within a One-Family Dwelling Residential Facility, or of any number of paying guests within a living unit in any other type of Residential Facility;
4. Operation of a beauty parlor with more than two (2) hairdrying machines;
5. Maintenance of a construction contractor's storage or construction yard or garage;
6. Care, treatment, or boarding of animals for profit;
7. Agricultural Activities that include the use of mechanized farm equipment.
8. Bee keeping activities that include more than three (3) hives.

D. Requirements.

1. Location. A home occupation shall only be performed in the following locations:
   a. Within a living unit by a resident thereof;
   b. Within an attached or detached garage or accessory structure reserved for a living unit; however, existing parking must be maintained or replacement parking provided.
   c. For Limited Agricultural Activities and bee keeping only, in an outdoor area on the same lot as a living unit, but only if the home occupation activity does not include the use of mechanized farming equipment or involve the keeping of more than three (3) bee hives.
2. Customers by Appointment. Professional and personal services shall only be provided by appointment except in rare and unusual circumstances. Regular walk-in clients are prohibited.
3. Nonresident Employees. One (1) nonresident employee is permitted. For the purpose of this chapter, the term "nonresident employee" includes an employee, business partner, co-owner, or other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation business. One (1) "nonresident employee" does not include when there are sequential employee shifts with each shift staffed by a different employee, even when only one (1) nonresident employee is at the site at any one (1) time. Only one (1) nonresident employee is permitted per residential unit, even if more than one (1) home occupation business operates at the subject unit.
4. Articles Sold. Articles offered for sale shall be limited to those produced on the premises, except where the home occupation serves as an agent or intermediary between off-site suppliers and off-site customers, in which case all articles, except for samples, shall be received, stored, and sold directly to customers at off-premises locations.
5. Exterior Appearance and Signs. There shall be no outside or window display of materials or products. No outside or window Sign shall advertise or otherwise identify

the home occupation except for one (1) Sign with a display surface of not more than one (1) square foot on any face. Such Sign shall be nonmoving, and its illumination, if any, shall be indirect and non-flashing. There shall be no other exterior indication of the home occupation, and no impairment of the residential appearance of the facilities within which the home occupation is conducted.

6. Retention of Historic Character-Defining Features. The historic character-defining features of the building shall be maintained in all home occupations.

7. Vehicular Storage. No commercial or passenger vehicle carrying any Sign advertising or otherwise identifying the home occupation shall be parked on any portion of the lot where such Sign is visible at any lot line of the lot containing the home occupation.

8. Traffic Generation. The home occupation shall not generate vehicular traffic substantially greater than that normally generated by Residential or Nonresidential Activities in the surrounding area.

9. Nuisances. The home occupation shall be so conducted as not to cause offensive or objectionable noise, vibration, smoke, odors, humidity, heat, cold, glare, dust, dirt, or electrical disturbance which is perceptible by the average person at or beyond any lot line of the lot containing the home occupation.

10. Hazards. Activities involving hazardous materials (such as fire, chemicals and/or more than three (3) machines) may require additional City permits, including but not limited to, a building permit for updated building facilities.

E. Application. For Activities involving hazardous materials, the applicant shall submit a site plan, floor plan and description of the business (including machinery used, materials and materials storage, etc.) for review by the Planning and Zoning, Building Services and Fire Departments. See the City's Basic Application for Development Review for the floor plan and site plan requirements; See also the City's Supplemental Questionnaire for Proposed Activities/Uses.

F. Required approval. No home occupation in the D-CE-3 Zone shall be permitted unless the Director of City Planning certifies that it will conform to the special home occupation regulations contained in this Section. The Director may fix a termination date upon a home occupation in order to affect a periodic review thereof. The Director's determination shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

17.101E.110 Special Parking Regulations for the D-CE Zones.

For the purposes of this Chapter only, the following regulations apply to the Boat and Marine-Related Sales, Rental, Repair and Servicing Activity. Auto parking regulations for other activity types are contained in Chapter 17.116 Off-Street Parking and Loading Requirements. Bicycle parking regulations for other activity types are contained in Chapter 17.117 Bicycle Parking Requirements.

A. Off-Street Parking—Commercial Activities. The following amounts of off-street parking are required for the specified Commercial Activity when located in the indicated zones and occupying facilities of the specified sizes, and shall be developed and maintained pursuant to the provisions of Article IV of Planning Code Chapter 17.116 Off-Street Parking and Loading Requirements.

Commercial Activity Type	Zone	Minimum Total Size for Which Parking Required	Requirement
Boat and Marine-Related Sales, Rental, Repair and Servicing	D-CE-1 and D-CE-6	10,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area.

B. Required Bicycle Parking—Commercial Activities. Subject to the calculation rules set forth in Chapter 17.117 Bicycle Parking Requirements Section 17.117.080, the following amounts of bicycle parking are required for the specified Commercial Activity and shall be developed and maintained pursuant to the provisions of Article II of Chapter 17.117

Commercial Activity Type	Long-Term Bicycle Parking Requirement	Short-Term Bicycle Parking Requirement
Boat and Marine-Related Sales, Rental, Repair and Servicing	One (1) space for each 12,000 square feet of floor area. Minimum requirement is 2 spaces.	One (1) space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces.

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

17.101E.112 Other zoning provisions.

The following table contains referrals to other regulations that may apply:

A. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.103, 17.104, 17.106, and 17.108 shall apply in the D-CE Zones.

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

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

D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the D-CE Zones.

E. Landscaping and Screening Standards. The regulations set forth in Chapter 17.124 and Chapter 17.102.400, screening of utility meters, etc., shall apply in the D-CE Zones.

F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

G. Noise, Odor, Smoke. Performance standards regarding the control of noise, odor, smoke, and other objectionable impacts in Chapter 17.120 shall apply in the D-CE Zones.

H. Microwave dishes and energy production facilities regulations in Section 17.102.240 shall apply in the D-CE Zones.

I. Electroplating Activities. Special regulations applying to Electroplating Activities in Section 17.102.340, shall apply in the D-CE Zones.

J. S-19 Health and Safety Protection Overlay Zone.

(Ord. No. 13168, § 5(Exh. A), 6-18-2013)

Chapter 17.101F D-GI GATEWAY INDUSTRIAL DISTRICT ZONE REGULATIONS [40]

Sections:

17.101F.010 Title, intent, and description.

17.101F.020 Required master plan conformance.

17.101F.030 Permitted and conditionally permitted activities.

17.101F.040 Permitted and conditionally permitted facilities.

17.101F.050 Property development standards.

17.101F.060 Design standards.

17.101F.070 Demolition.

17.101F.080 Other zoning provisions.

17.101F.010 Title, intent, and description.

The provisions of this Chapter shall be known as the D-GI Gateway Industrial District Zone Regulations. The intent of the Gateway Industrial District (D-GI) Zone is to facilitate implementation of the Oakland Army Base Reuse Plan.

(Ord. No. 13182, § 3(Exh. A), 7-16-2013)

17.101F.020 Required master plan conformance.

All development shall be in substantial conformance with the approved Oakland Army Base Reuse Plan, as amended, and adopted Standard Conditions of Approval and Mitigation Measures, as applicable.

(Ord. No. 13182, § 3(Exh. A), 7-16-2013)

17.101F.030 Permitted and conditionally permitted activities.

Table 17.101F.01 lists the permitted, conditionally permitted, and prohibited activities in the D-GI Zone. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.101F.01: Permitted and Conditionally Permitted Activities

Activities	Zone	Additional Regulations
	D-GI	
Residential Activities		
Permanent	—	
Residential Care	—	
Service-Enriched Permanent Housing	—	
Transitional Housing	—	
Emergency Shelter	—	
Semi-Transient	—	
Bed and Breakfast	—	
Civic Activities		
Essential Service	P(L1)	
Limited Child-Care Activities	—	
Community Assembly	P(L2)(L3)	
Recreational Assembly	—	
Community Education	—	
Nonassembly Cultural	P(L4)	
Administrative	P	
Health Care	—	
Special Health Care	—	
Utility and Vehicular	P(L2)	
Extensive Impact	P(L2)	
Commercial Activities		
General Food Sales	P	
Full Service Restaurants	P	
Limited Service Restaurant and Cafe	P	
Fast-Food Restaurant	C	8.09
Convenience Market	P(L5)	
Alcoholic Beverage Sales	C	
Mechanical or Electronic Games	—	
Medical Service	P(L2)	
General Retail Sales	P(L2)	
Large-Scale Combined Retail and Grocery Sales	—	

Activities	Zone	Additional Regulations
	D-GI	
Consumer Service	P(L2)	
Consultative and Financial Service	P	
Check Cashier and Check Cashing	—	
Consumer Cleaning and Repair Service	—	
Consumer Dry Cleaning Plant	—	
Group Assembly	P(L2)(L6)	
Personal Instruction and Improvement Services	P(L2)(L6)	
Administrative	P	
Business, Communication, and Media Services	P	
Broadcasting and Recording Services	P	
Research Service	P	
General Wholesale Sales	P	
Transient Habitation	—	
Wholesale and Professional Building Material Sales	P	
Automobile and Other Light Vehicle Sales and Rental	P(L2)	
Automobile and Other Light Vehicle Gas Station and Servicing	P	
Automobile and Other Light Vehicle Repair and Cleaning	P	
Taxi and Light Fleet-Based Services	P	
Automotive Fee Parking	P	
Animal Boarding	—	
Animal Care	—	
Undertaking Service	—	
Industrial Activities		
Custom Manufacturing	P	
Light Manufacturing	P	
General Manufacturing	P	
Heavy/High Impact	C	
Research and Development	P	
Construction Operations	P(L2)	
Warehousing, Storage, and Distribution-Related:		
A. General Warehousing, Storage and Distribution	P	

Activities	Zone	Additional Regulations
	D-GI	
B. General Outdoor Storage	P	
C. Self-or Mini Storage	P	
D. Container Storage	P	
E. Salvage/Junk Yards	—	
Regional Freight Transportation-Related:		
A. Seaport	P	
B. Rail Yard	P	
Trucking and Truck-Related:		
A. Freight/Truck Terminal	P	
B. Truck Yard	P	
C. Truck Weigh Stations	P	
D. Truck and Other Heavy Vehicle Sales, Rental, and Leasing	P	
E. Truck and Other Heavy Vehicle Service, Repair, and Refueling	P	
Recycling and Waste-Related:		
A. Satellite Recycling Collection Centers	P	
B. Primary Recycling Collection Centers	P(L7)	17.73.035
Hazardous Materials Production, Storage, and Waste Management-Related:		
A. Small Scale Transfer and Storage	C	
B. Industrial Transfer/Storage	C	
C. Residuals Repositories	C	
D. Oil and Gas Storage	C	
Agriculture and Extractive Activities		
Plant Nursery	—	
Limited Agriculture	—	
Extensive Agriculture	—	
Mining and Quarrying	—	
Accessory off-street parking serving prohibited activities	C	17.116.175
Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof	C	17.102.110

Limitations on Table 17.101F.01:

L1. Community Gardens and Botanical Gardens are prohibited.

L2. These activities are limited to establishments that support or are associated with trucking, warehousing, or maritime-related activities.

L3. Community Assembly Activities are limited to public and private nonprofit clubs, lodges, and meeting halls.

L4. Nonassembly Cultural Activities are limited to museums and commemorative exhibits pertaining to trucking, warehousing, or maritime-related activities or the history of the site.

L5. Convenience Markets are limited to establishments located on the same lot as an Automobile and Other Light Vehicle Gas Station and Servicing Activity or a Truck and Other Heavy Vehicle Service, Repair, and Refueling Activity.

L6. Group Assembly Activities and Personal Instruction and Improvement Services Activities are limited to instructional services.

L7. Primary Recycling Collection Centers shall comply with the performance standards set forth in Section 17.73.035.

(Ord. No. 13182, § 3(Exh. A), 7-16-2013)

17.101F.040 Permitted and conditionally permitted facilities.

Table 17.101F.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-GI Zone. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

Table 17.101F.02: Permitted and Conditionally Permitted Facilities

Facilities	Zone	Additional Regulations
	D-GI	
Residential Facilities		
One-Family Dwelling	—	
One-Family Dwelling with Secondary Unit	—	
Two-Family Dwelling	—	
Multifamily Dwelling	—	
Rooming House	—	
Mobile Home	—	

Nonresidential Facilities		
Enclosed Nonresidential	P	
Open Nonresidential	P	
Drive-In	P	
Sidewalk Cafe	P	
Shopping Center	—	
Drive-Through	P/C(L1)	
Telecommunications Facilities		
Micro Telecommunications	P	17.128
Mini Telecommunications	P	17.128
Macro Telecommunications	P	17.128
Monopole Telecommunications	P	17.128
Tower Telecommunications	P	17.128
Sign Facilities		
Residential Signs	—	
Special Signs	P	17.104
Development Signs	P	17.104
Realty Signs	P	17.104
Civic Signs	P	17.104
Business Signs	P	17.104
Advertising Signs	P(L2)	17.104

Limitations for Table 17.101F.02:

L1. Drive-Through Facilities associated with a Fast Food Restaurant are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the Conditional Use Permit procedure). All other Drive-Through Facilities are permitted.

L2. Advertising Signs are limited to signs permitted pursuant to an agreement authorized by the Oakland City Council.

(Ord. No. 13182, § 3(Exh. A), 7-16-2013)

17.101F.050 Property development standards.

Table 17.101F.03 below prescribes development standards specific to the D-GI Zone. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

Table 17.101F.03: Property Development Standards

Development Standards	**D-GI Zone**	Additional Regulations
Minimum Lot Dimensions		
Width mean	25 ft	1
Frontage	25 ft	1
Lot area	5,000 sf	1
Maximum Building Height	65 ft	2, 3
Minimum Setbacks		
Minimum front	None	
Minimum interior side	None	
Minimum street side	None	
Rear	None	
Maximum Floor-Area Ratio (FAR)	5.0	4
Minimum Required Parking	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking	

Additional Regulations for Table 17.101F.03:

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, width mean, and street frontage regulations.

2. See Section 17.108.030 for allowed projections above height limits.

3. The maximum permitted building height does not apply to equipment, storage areas, or Advertising Signs. The maximum permitted building height may be exceeded upon the granting of a Conditional Use Permit (see Chapter 17.134 for the Conditional Use Permit procedure).

4. The maximum permitted floor-area ratio may be exceeded upon the granting of a Conditional Use Permit (see Chapter 17.134 for the Conditional Use Permit procedure).

(Ord. No. 13182, § 3(Exh. A), 7-16-2013)

17.101F.060 Design standards.

All development shall comply with the design standards for the D-GI Zone adopted by the City Planning Commission, as amended.

(Ord. No. 13182, § 3(Exh. A), 7-16-2013)

17.101F.070 Demolition.

The requirement in Section 15.36.070 pertaining to the demolition of structures prior to the issuance of a building permit to construct a replacement structure shall not apply in the D-GI Zone.

(Ord. No. 13182, § 3(Exh. A), 7-16-2013)

17.101F.080 Other zoning provisions.

Except as expressly provided, all other provisions of the Oakland Municipal Code shall apply in the D-GI Zone, including but not limited to, the provisions listed below.

A. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.104, 17.106, and 17.108 shall apply in the D-GI Zone.

B. Buffering Regulations. The requirements of the buffering regulations in Chapter 17.110 shall apply in the D-GI Zone.

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

D. 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.

E. Bicycle Parking. Bicycle parking shall be provided as prescribed in the bicycle parking requirements in Chapter 17.117.

F. Recycling Space Allocation Requirements. The recycling space allocation requirements in Chapter 17.118 shall apply in the D-GI Zone.

G. Performance Standards. The performance standards in Chapter 17.120 shall apply in the D-GI Zone.

H. Landscaping and Screening Standards. The landscaping and screening standards in Chapter 17.124 shall apply in the D-GI Zone.

(Ord. No. 13182, § 3(Exh. A), 7-16-2013)

FOOTNOTE(S):

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Editor's note— Ord. No. 13182, § 3(Exh. A), adopted July 16, 2013, amended Chapter 17.101F in its entirety to read as herein set out. Formerly, Chapter 17.101F pertained to similar subject matter, and derived from Ord. No. 13168, § 5(Exh. A-1), adopted June 18, 2013. (Back)

Chapter 17.101G D-LM LAKE MERRITT STATION AREA DISTRICT ZONES REGULATIONS

Sections:

17.101G.010 Title, purpose, and applicability.

17.101G.020 Required design review process and pre-application review.

17.101G.030 Permitted and conditionally permitted activities.

17.101G.040 Permitted and conditionally permitted facilities.

17.101G.050 Property development standards.

17.101G.060 Usable open space standards.

17.101G.070 Special regulations for large-scale developments.

17.101G.080 Other zoning provisions.

17.101G.010 Title, purpose, and applicability.

A. Intent. The provisions of this Chapter shall be known as the D-LM Lake Merritt Station Area District Zones Regulations. The intent of the Lake Merritt Station Area District (D-LM) Zones is to implement the Lake Merritt Station Area Plan. Development in this zoning district shall be consistent with the Lake Merritt Station Area Plan, of a high quality design, and include active ground floor uses where appropriate and feasible. The objectives of the D-LM Lake Merritt Station Area District Zones are to:

1. Create a more active and vibrant Lake Merritt Station Area District to serve and attract residents, businesses, students, and visitors;
2. Increase activity and vibrancy in the area by encouraging vital retail nodes that provide services, restaurants, and shopping opportunities;
3. Improve connections between the Lake Merritt BART Station and major destinations outside the Station Area District;
4. Improve safety and pedestrian-orientation;
5. Accommodate the future population, including families;
6. Increase the number of jobs and improve the local economy;
7. Identify additional recreation and open space opportunities and improve existing resources; and
8. Encourage and enhance a pedestrian-oriented streetscape.

B. **Description of zones.** This Chapter establishes land use regulations for the following five (5) zones:

1. **D-LM-1 Lake Merritt Station Area District Mixed Residential - 1 Zone.** The intent of the D-LM-1 Zone is to create, maintain, and enhance areas of the Lake Merritt Station Area Plan District appropriate for high-density residential development with compatible Commercial Activities.
2. **D-LM-2 Lake Merritt Station Area District Pedestrian Commercial - 2 Zone.** The intent of the D-LM-2 Zone is to create, maintain, and enhance areas of the Lake Merritt Station Area Plan District for ground-level, pedestrian-oriented, active storefront uses.

Upper story spaces are intended to be available for a wide range of Office and Residential Activities.

3. **D-LM-3 Lake Merritt Station Area District General Commercial - 3 Zone.** The intent of the D-LM-3 Zone is to create, maintain, and enhance areas of the Lake Merritt Station Area Plan District appropriate for a wide range of ground-floor Commercial Activities. Upper-story spaces are intended to be available for a wide range of Residential, Office, or other Commercial Activities.

4. **D-LM-4 Lake Merritt Station Area District Mixed Commercial - 4 Zone.** The intent of the D-LM-4 Zone is to designate areas of the Lake Merritt Station Area Plan District appropriate for a wide range of Residential, Commercial, and compatible Light Industrial Activities.

5. **D-LM-5 Lake Merritt Station Area District Institutional - 5 Zone.** The intent of the D-LM-5 Zone is to create, preserve, and enhance areas devoted primarily to major public and quasi-public facilities and auxiliary uses.

C. **Definition of corridor types.** For the purposes of this Chapter only, the following definitions shall be utilized to apply special land use regulations and development standards to properties fronting the following two types of street corridors:

1. Commercial Corridor. The intent of regulations related to properties fronting "Commercial Corridors" is to maintain and promote an existing pattern of continuous ground floor Commercial Activities and Facilities along the subject corridor. The following streets are designated as Commercial Corridors: 14th Street (between Franklin and Oak Streets), 9th Street (between Broadway and Harrison Street, and between Madison and Fallon Streets), 8th Street (between Broadway and Harrison Street, and between Madison and Fallon Streets), Oak Street (between 8th and 9th Streets), Harrison Street (between 7th and 11th Streets), Webster Street (between 7th and 11th Streets), Franklin Street (between 7th and 11th Streets), and Broadway (between 7th and 10th Streets).

2. Transitional Commercial Corridor. The intent of regulations related to properties fronting "Transitional Commercial Corridors" is to expand the amount of ground floor Commercial Activities and Facilities along the subject corridor. The following streets are designated as Transitional Commercial Corridors: International Boulevard (between 1st and 4th Avenues), East 12th Street (between 1st and 4th Avenues), 8th Street (between Harrison and Madison Streets), 9th Street (between Harrison and Madison Streets), 1st Avenue (between East 12th Street and International Boulevard), Oak Street (between 5th and 8th Streets, and between 9th and 14th Streets), Harrison Street (between 11th and 14th Streets), Webster Street (between 11th and 14th Streets, and between 5th and 7th Streets), Franklin Street (between 11th and 14th Streets, and between 5th and 7th Streets), and Broadway (between 5th and 7th Streets).

17.101G.020 Required design review process and pre-application review.

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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. In addition to the design review criteria listed in Chapter 17.136, conformance with the "Design Guidelines for the Lake Merritt Station Area Plan" is required for any proposal in the D-LM Zones subject to the design review procedure in Chapter 17.136.

C. Where there is a conflict between the design review criteria contained in Chapter 17.136 and the design review guidelines contained in the "Design Guidelines for the Lake Merritt Station Area Plan", the design objectives in the "Design Guidelines for the Lake Merritt Station Area Plan" shall prevail.

D. Pre-Application Review— Discretionary Approvals. Prior to any Planning application involving an Opportunity Site identified in the Lake Merritt Station Area Plan which requires one or more discretionary approvals (including but not limited to, Regular design review, conditional use permit, variance, and/or subdivision), the applicant, or his or her representative, shall submit for a pre-application review of the proposal by a representative of the City Planning Department. During the pre-application review, City staff will provide information about applicable Lake Merritt Station Area Plan objectives and design guidelines.

17.101G.030 Permitted and conditionally permitted activities.

Table 17.58.01 lists the permitted, conditionally permitted, and prohibited activities in the D-LM Zones. The descriptions of these activities are contained in Chapter 17.10.

"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 for the CUP procedure) in the corresponding zone.

"L" designates activities subject to certain limitations or notes listed at the bottom of the Table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.101G.01: Permitted and Conditionally Permitted Activities

Activities	**Zones**					**Additional Regulations**
	D-LM-1	**D-LM-2**	**D-LM-3**	**D-LM-4**	**D-LM-5**	
Residential Activities						
Permanent	P(L1)	P(L1)	P(L1)	P(L1)	P	
Residential Care	P(L1)(L2)	P(L1)(L2)	P(L1)(L2)	P(L1)(L2)	P(L2)	17.103.010
Supportive Housing	P(L1)	P(L1)	P(L1)	P(L1)	P	
Transitional Housing	P(L1)	P(L1)	P(L1)	P(L1)	P	
Emergency Shelter	C(L1)(L2)	C(L1)(L2)	C(L1)(L2)	C(L1)(L2)	C(L2)	17.103.010
Semi-Transient	C(L1)	C(L1)	C(L1)	C(L1)	C	
Bed and Breakfast	P	P	P	P	P	17.10.125
Civic Activities						
Essential Service	P	P	P	P	P	

Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Limited Child-Care Activities	P	P	P	P	P	
Community Assembly	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P	
Recreational Assembly	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P	
Community Education	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P	
Nonassembly Cultural	P	P	P	P	P	
Administrative	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P	
Health Care	C	C	C	C	C	
Special Health Care	—	C(L6)(L8)	C(L6)(L8)	C(L6)(L8)	C(L6)(L8)	17.103.020
Utility and Vehicular	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	
Commercial Activities						
General Food Sales	P(L4)(L7)	P(L4)	P	P(L4)	P	
Full Service Restaurants	P	P	P	P	P	
Limited Service Restaurant and Cafe	P	P	P	P	P	
Fast-Food Restaurant	—	C	C	C	C	17.103.030 and 8.09
Convenience Market	C(L7)	C	C	C	C	17.103.030
Alcoholic Beverage Sales	C(L7)	C	C	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	C	C	C	C	C	
Medical Service	P(L4) (L5)	P(L4) (L5)	P(L5)	P(L5)	P	
General Retail Sales	P	P	P	P	P	

Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	
Consumer Service	P(L4) (L5) (L9)	P(L4) (L5) (L9)	P(L5) (L9)	P(L5) (L9)	P(L9)	
Consultative and Financial Service	P(L4) (L5)	P(L4) (L5)	P(L5)	P(L5)	P	
Check Cashier and Check Cashing	—	C(L10)	C(L10)	C(L10)	C(L10)	17.103.040
Consumer Cleaning and Repair Service	P(L4) (L5) (L7)	P(L5)	P(L5)	P(L5)	P	
Consumer Dry Cleaning Plant	C(L7)	C	C	C	C	
Group Assembly	C(L11)	P(L4) (L5) (L11)	P(L11)	P(L4) (L5) (L11)	P(L11)	
Personal Instruction and Improvement Services	P	P	P	P	P	
Administrative	P(L4) (L5)	P(L4) (L5)	P(L5)	P(L5)	P	
Business, Communication, and Media Services	P(L4) (L5) (L7)	P(L4) (L5)	P(L5)	P(L5)	P	
Broadcasting and Recording Services Commercial Activities	P(L4) (L5) (L7)	P(L4) (L5)	P(L5)	P(L5)	P	
Research Service	P(L4) (L5)	P(L4) (L5)	P(L5)	P(L5)	P	
General Wholesale Sales	—	—	—	C	—	
Transient Habitation	C	C	C	C	C	17.103.050
Building Material Sales	—	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	C	—	

Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	C(L13)	—	
Taxi and Light Fleet-Based Services	—	—	—	C(L13)	—	
Automotive Fee Parking	C(L14)	C(L14)	C(L14)	C(L14)	C(L14)	
Animal Boarding	—	—	—	—	—	
Animal Care	—	C	C	C	C	
Undertaking Service	—	—	—	C	—	
Industrial Activities						
Custom Manufacturing	—	C(L1)(L13)	—	C(L13)	—	
Light Manufacturing	—	—	—	— C(L13)	—	
General Manufacturing	—	—	—	—	—	
Heavy/High Impact	—	—	—	—	—	
Research and Development	—	—	C(L13)	C(L13)	—	
Construction Operations	—	—	—	—	—	
Warehousing, Storage, and Distribution-Related						
A. General Warehousing, Storage and Distribution	—	—	—	—	—	
B. General Outdoor Storage	—	—	—	—	—	

Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
C. Self- or Mini-Storage	—	—	—	—	—	
D. Container Storage	—	—	—	—	—	
E. Salvage/ Junk Yards	—	—	—	—	—	
Regional Freight and Transportation-Related						
All Regional Freight and Transportation-Related Activities	—	—	—	—	—	
Trucking and Truck-Related						
All Trucking and Truck-Related Activities	—	—	—	—	—	
Recycling and Waste-Related						
A. Satellite Recycling Collection Centers	—	—	—	—	—	
B. Primary Recycling Collection Centers	—	—	—	—	—	
Hazardous Materials Production, Storage, and Waste Management-Related	—	—	—	—	—	
Agriculture and Extractive Activities						
Limited Agriculture	P(L15)	P(L15)	P(L15)	P(L15)	P(L15)	
Extensive Agriculture	C(L16)	C(L16)	C(L16)	C(L16)	C(L16)	
Plant Nursery	—	—	—	—	—	
Mining and Quarrying	—	—	—	—	—	

Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Accessory off-street parking serving prohibited activities	C	C	C	C	C	17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone	C	C	C	C	C	17.102.110

Limitations:

L1. These activities may not be located within thirty (30) feet of the front lot line on the ground floor of an existing principal building fronting a Commercial Corridor or within thirty (30) feet of the front lot line on the ground floor of a new principal building fronting a Transitional Commercial Corridor, as defined in Section 17.101G.010.C, with the exception of incidental pedestrian entrances that lead to one of these activities elsewhere in the building. See Section 17.101G.040 for limitations on the construction of new ground floor Residential Facilities.

L2. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L3. These activities may only be located above the ground floor of a building upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure).

L4. With the exception of parcels facing Broadway and 14th Street, the total linear frontage length devoted to these activities on the ground floor by any single establishment may only exceed twenty-five percent (25%) of the total linear frontage length from street corner to street corner upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). Any single establishment may only exceed twelve thousand (12,000) square feet in floor area upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure).

L5. If located on a Commercial Corridor, as defined in Section 17.101G.010.C with the exception of 8th, 9th, Franklin, Webster and Harrison Streets between 7th, 10th, Broadway and Harrison Streets, and both on the ground floor of a building and within thirty (30) feet from any street-abutting property line, these activities are only permitted upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). If located on 8th, 9th, Franklin, Webster and Harrison Streets between 7th, 10th, Broadway and Harrison Streets, and

both on the ground floor of a building and within thirty (30) feet from any street-abutting property line, any single establishment may only exceed five thousand (5,000) square feet upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this conditional use permit requirement. In addition to the criteria contained in Section 17.134.050, these conditionally permitted ground floor proposals must also meet each of the following criteria:

a. The proposal will not impair a generally continuous wall of building facades;

b. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and

c. The proposal will not interfere with the movement of people along an important pedestrian street.

L6. These activities are only permitted upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, when these activities are located within thirty (30) feet of the front of the ground floor of the principal building (with the exception of incidental pedestrian entrances that lead to one of these activities elsewhere in the building) the proposed activities must also meet the criteria contained in Note L5, above.

L7. These activities may only be located on or below the ground floor of a building with the following exceptions:

a. If the floor area devoted to the activity is less than two thousand (2,000) square feet and the activity takes place in a Local Register property, then the activity is permitted above the ground floor upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP process).

b. An activity located on the ground floor may extend to the second floor of a building if each: 1) the floor area devoted to Nonresidential Activities in the building is less than the floor area devoted to Residential Activities; 2) the activity on the second floor is the same as, or accessory to, the ground floor activity and part of the same business or establishment; and 3) there is a direct internal connection between the ground floor and the second story activities.

L8. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity, or five hundred (500) feet from any K-12 school or Licensed Emergency Shelters. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L9. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L10. No new or expanded Check Cashier and Check Cashing Commercial Activity shall be located closer than one thousand (1,000) feet from any other such activity or five hundred (500) feet from any Community Education, Community Assembly, or Recreational Assembly Civic Activity; State or Federally chartered bank, savings association, credit union, or industrial loan company; or certain Alcoholic Beverage Sales Commercial Activities. See Section 17.103.040 for further regulations regarding Check Cashier and Check Cashing Commercial Activities.

L11. No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from

any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L12. The total floor area devoted to these activities by any single establishment shall not exceed three thousand (3,000) square feet.

L13. These activities, including accessory activities, are only allowed to be performed indoors. This requirement includes, but is not limited to: vehicles stored before and after servicing, general storage, vehicle and other repair, and automotive cleaning. This requirement excludes parking for customers currently at the business and automotive fueling.

L14. Auto fee parking is permitted upon the granting of conditional use permit (see Chapter 17.134 for the CUP procedure) if it is located in either a parking structure or in a below grade parking lot. Auto fee parking is otherwise prohibited.

L15. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure).

L16. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

17.101G.040 Permitted and conditionally permitted facilities.

Table 17.101G.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-LM Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure) in the corresponding zone.

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited

Table 17.101G.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Residential Facilities						
One-Family Dwellings	—(L1)	—(L1)	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	P(L5)	P(L5)	P(L5)	P(L5)	P(L5)	17.103.080
Two-Family Dwelling	P	P(L5)	P(L5)	P(L5)	P(L5)	
Multifamily Dwelling	P	P	P	P	P	
Rooming House	P	P	P	P	P	
Mobile Home	—	—	—	—	—	
Nonresidential Facilities						
Enclosed Nonresidential	P(L3)	P(L3)	P(L3)	P(L3)	P	
Open Nonresidential	C(L4)	C(L4)	C(L4)	C(L4)	C(L4)	
Sidewalk Cafe	P	P	P	P	P	17.103.090
Drive-In Nonresidential	—	—	—	C	C	
Drive-Through Nonresidential	—	—	—	C(L2)	C(L2)	17.103.100
Telecommunications Facilities						
Micro Telecommunications	C	P	P	P	P	17.128
Mini Telecommunications	C	P	P	P	P	17.128
Macro Telecommunications	C	C	C	C	C	17.128

Facilities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Monopole Telecommunications	—	—	—	C	C	17.128
Tower Telecommunications	—	—	—	—	—	17.128
Sign Facilities						
Residential Signs	P	P	P	P	P	17.104
Special Signs	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	17.104
Realty Signs	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	17.104
Business Signs	P	P	P	P	P	17.104
Advertising Signs	—	—	—	—	—	17.104

Limitations:

L1. See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities.

L2. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

L3. New construction of a Nonresidential Facility shall be required to incorporate ground floor commercial space that conforms to the design standards in Table 17.101G.03 if:

a. The facility fronts onto a: (1) "Transitional Commercial Corridor", as identified in Section 17.101G.010.C, is more than thirty-five (35) feet wide, and is either within a Lake Merritt Station Area Plan Opportunity Site or on a corner lot; or

b. The facility fronts onto a: (2) "Commercial Corridor", as identified in Section 17.101G.010.C, and is more than thirty-five (35) feet wide.

L4. No Conditional Use Permit (CUP) is required for Open Nonresidential Facilities to accommodate Civic Activities, Limited Agriculture, seasonal sales, or special events.

L5. A Secondary Unit that meets all requirements set forth in Section 17.103.080 is only permitted in conjunction with an existing One-Family Dwelling. Also, a Two-Family Dwelling that meets all applicable requirements set forth in the Planning and Building Codes is only permitted as the result of an approved conversion of an existing One-Family Dwelling.

17.101G.050 Property development standards.

A. **Zone Specific Standards.** Table 17.58.03 below prescribes development standards specific to individual zones. The number designations in the right-hand column refer to the additional regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified zone.

Table 17.101G.03: Property Development Standards

Development Standards	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Minimum Lot Dimensions						
Width	25 ft.	25 ft.	50 ft.	50 ft.	50 ft.	1
Frontage	25 ft.	25 ft.	50 ft.	50 ft.	50 ft.	1
Lot area	4,000 sf.	4,000 sf.	7,500 sf.	7,500 sf.	7,500 sf.	1
Minimum/Maximum Setbacks						
Minimum front	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	2
Maximum front and street side for the first story	N/A	5 ft.	5 ft.	10 ft.	N/A	3
Maximum front and street side for the second and third stories or thirty-five (35) feet, whatever is lower	N/A	5 ft.	5 ft.	N/A	N/A	3
Minimum interior side	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	
Minimum corner side	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	
Rear	10 ft.	0 ft.	0 ft.	0 ft.	0 ft.	
Average minimum setback from the Lake Merritt Estuary Channel	60 ft.	60 ft.	60 ft.	60 ft.	60 ft.	4
Design Regulations						
Ground floor commercial facade transparency	55%	65%	55%	55%	55%	5
Minimum height of ground floor Nonresidential Facilities	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	6
Minimum width of storefronts	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	7
Minimum separation between the grade and ground floor living space	2.5 ft.	N/A	N/A	2.5 ft.	N/A	8

Additional Regulations:

1. See Section 17.106.010 and 17.106.020 for exceptions to lot area, width and street frontage regulations.

2. See Section 17.108.040 for the minimum front yard setback when fifty percent (50%) or more of the frontage on the same block and side of the street is in a Residential Zone.

3. The following notes apply to the maximum yard requirements:

a. The requirements only apply to the construction of new principal buildings and to no more than two property lines. One of these property lines shall abut the principal street.

b. The requirements do not apply to lots containing Recreational Assembly, Community Education, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities as principal activities.

c. These maximum yards apply to seventy-five percent (75%) of the street frontage on the principal street and fifty percent (50%) on other streets, if any. All percentages, however, may be reduced to fifty percent (50%) upon the granting of regular design review (see Chapter 17.136 for the design review procedure). In addition to the criteria contained in 17.136.050, the proposal must also meet each of the following criteria:

i. Any additional yard area abutting the principal street is designed to accommodate publicly accessible plazas, sidewalk cafes, or restaurants;

ii. The proposal will not impair a generally continuous wall of building facades;

iii. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and

iv. The proposal will not interfere with the movement of people along an important pedestrian street.

d. The maximum yard requirements above the ground floor may be waived upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, the proposal must also meet each of the following criteria:

i. It infeasible to both accommodate the use proposed for the space and meet the maximum yard requirement;

ii. The proposal will not weaken the street definition provided by buildings with reduced setbacks; and

iii. The proposal will not interrupt a continuity of 2nd and 3rd story facades on the street that have minimal front yard setbacks.

4. This regulation is the average setback distance, measured from the mean high tide line, along the total length of channel frontage involved in a project, with a minimum setback at any point of forty (40) feet.

5. This percentage of transparency is only required for principal buildings that include ground floor Nonresidential Facilities, and only applies to the facade facing the principal street. On all other street facing facades, the requirement is one-half (½) the standard for the facade facing the principal street. The area of required transparency is between two (2) feet and nine (9) feet

in height of the ground floor and must be comprised of clear, non-reflective windows that allow views out of indoor commercial space or lobbies. Glass block does not qualify as a transparent window. Exceptions to this regulation may be allowed by the Planning Director for unique facilities such as convention centers, gymnasiums, parks, gas stations, theaters and other similar facilities.

6. This height is required for new principal buildings and is measured from the sidewalk grade to the second story floor.

7. This regulation only applies to new construction of ground floor storefronts as part of a mixed use development project. Also see Lake Merritt Station Area Plan Design Guidelines for further guidance.

8. This regulation only applies to ground floor living space located within fifteen (15) feet of a street frontage.

B. **Height, Bulk, and Intensity Area Specific Standards.** Table 17.101G.04 below prescribes height, bulk, and intensity standards associated with the height/bulk/intensity areas described in the Zoning Maps. The numbers in the right-hand column refer to the additional regulations listed at the end of the Table. "N/A" designates the regulation is not applicable to the specified Height/Bulk/Intensity Area.

Table 17.101G.04 Height, Density, Bulk, and Tower Regulations

Regulation	**Height/Bulk/Intensity Areas**				**Notes**
	LM-45	**LM-85**	**LM-175**	**LM-275**	
Maximum Height					
Building Base	45 ft.	45 ft.	45 ft. base; 85 ft. base upon granting of CUP and additional findings in Note 2.a, b, c	45 ft. base; 85 ft. base upon granting of CUP and additional findings in Note 2.a, b, c	1
Maximum Height Total	45 ft.	85 ft.	175 ft.	275 ft.	2

Regulation	Height/Bulk/Intensity Areas				Notes
	LM-45	**LM-85**	**LM-175**	**LM-275**	
Height Area Exceptions Allowed With Conditional Use Permit (CUP)	N/A	**LM-175** standards allowed for **5 bldgs. total** (2 on east side and 3 on west side of Lake Merritt Channel); **LM-275** standards allowed for **3 bldgs. total** (1 on east side and 2 on west side of Lake Merritt Channel)	**LM-275** standards allowed for **3 bldgs. total**	Not applicable	2
Minimum Height					
New principal buildings	25 ft.	35 ft.	35 ft.	35 ft.	3
Maximum Residential Density (Square Feet of Lot Area Required Per Unit)					
Dwelling unit	450	225	110	110	2, 4
Rooming unit	225	110	55	55	2, 4
Maximum Nonresidential Intensity (Floor Area Ratio)					
Maximum Nonresidential Floor Area Ratio (FAR)	2.5	5	8	12	2, 4
Tower Regulations					

Regulation	Height/Bulk/Intensity Areas				Notes
	LM-45	LM-85	LM-175	LM-275	
Setback of Tower from Building Base	N/A	0 ft., for buildings not exceeding 85 ft. in height 10 ft., along at least 50% of the perimeter length of base for buildings exceeding 85 ft. in height	20 ft., along at least 50% of the perimeter length of the building base; 10 ft., along at least 50% of the perimeter length of base upon granting of CUP and additional findings in Note 2.a, b, c	20 ft., along at least 50% of the perimeter length of the building base; 10 ft., along at least 50% of the perimeter length of base upon granting of CUP and additional findings in Note 2.a, b, c	See additional CUP findings in Note 2 below
Maximum average per story lot coverage above building base	N/A	N/A	65% of site area or 10,000 sf, whichever is greater	75% of site area or 10,000 sf, whichever is greater	2, 5
Maximum tower elevation length	N/A	N/A	150 ft.	150 ft.	2, 5
Maximum diagonal length	N/A	N/A	180 ft.	180 ft.	2, 5
Minimum distance between towers on the same lot	N/A	N/A	50 ft.	50 ft.	2

Notes:

1. See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

2. Height Area Exceptions. In Height/Bulk/Intensity Areas LM-85 and LM-175, a limited number of buildings, as prescribed above in Table 17.101G.04, may be allowed to utilize the same height/bulk/intensity standards that typically apply to either Height/Bulk/Intensity Area LM-175 or LM-275 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. The proposal is consistent with the intent and desired land use character identified in the Lake Merritt Station Area Plan and its associated policies;

b. The proposal will promote implementation of the Lake Merritt Station Area Plan; and

c. The proposal is consistent with the desired visual character described in the Lake Merritt Station Area Plan and Lake Merritt Station Area Design Guidelines, with consideration given to the existing character of the site and surrounding area.

The following application process for a height area exception shall be followed:

i. Applications for any of the limited number of allowed height area exceptions prescribed in Table 17.101G.04 shall be reviewed on a first come, first served basis.

ii. A project shall secure a position as one of the specified height area exceptions following final Conditional Use Permit approval. Such Conditional Use Permits shall include a condition of approval that establishes a schedule for: submittal of a building permit application, timely response to plan check comments, payment of building permit fees such that a building permit can be issued, and commencement of construction. The process for allowing extension of the timeline requirements, if any, shall be specified in the condition.

iii. Failure of a permittee to strictly comply with the schedule established by the Conditional Use Permit shall be grounds for revocation of the Conditional Use Permit pursuant to Chapter 17.134.

3. This minimum height excludes the height of the allowed projections into the height limit contained in Section 17.108.030.

4. For mixed use projects in the D-LM Zones, the allowable intensity of development shall be measured according to both the maximum nonresidential Floor Area Ratio (FAR) allowed by the zone and the maximum residential density allowed by the zone. The total lot area shall be used as a basis for computing both the maximum nonresidential FAR and the maximum residential density.

5. The maximum tower elevation length, diagonal length, and average per story lot coverage above the building base may be increased by up to thirty percent (30%) 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. The proposal will result in a signature building within the neighborhood, City, or region based on qualities, including but not limited to, exterior visual quality, craftsmanship, detailing, and high quality and durable materials.

17.101G.060 Usable open space standards.

A. **General.** This Section contains the usable open space standards and requirements for residential development in the D-LM Zones. These requirements shall supersede those in Chapter 17.126.

B. **Definitions of D-LM usable open space types.** The following includes a list of available usable open space types eligible to fulfill the usable space requirements of this Chapter and the definitions of these types of open space:

1. **"Private Usable Open Space".** Private usable open space is accessible from a single unit and may be provided in a combination of recessed and projecting exterior spaces.

2. **"Public Ground-Floor Plaza".** Public ground-floor plazas (plazas) are group usable open space (see Section 17.127.030) located at street-level and adjacent to the building frontage. Plazas shall be publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving.
3. **"Rooftop Open Space".** Rooftop open space, a type of group usable open space, includes gardens, decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants.
4. **"Courtyard".** A courtyard is a type of group usable open space that can be located anywhere within the subject property.
5. **"Off-Site Open Space".** Off-site open spaces are group usable open space at street-floor or podium-level within one thousand (1,000) feet of a residential development. Off-site open spaces shall be publicly accessible during daylight hours and are maintained by the property owner.
6. **"Community Room".** Community room can be located anywhere on the subject property and shall be available for use by all members of said residential development.

C. **Standards.** All required usable open space shall be permanently maintained and shall conform to the following standards:

1. Area. On each lot containing Residential Facilities with a total of two (2) or more living units, usable open space shall be provided for such facilities at the following rates:

Table 17.101G.05: Required Amounts of Usable Open Space

Type of Living Unit	Minimum Open Space Area Required
Senior Housing Unit	Thirty-eight (38) square feet per unit
Affordable Housing Unit	Sixty (60) square feet per unit
Rooming Unit	Thirty-eight (38) square feet per unit
Residential Unit within a Building on the Local Register of Historic Resources	Thirty-eight (38) square feet per unit
Other Residential Unit	Seventy-five (75) square feet per unit

2. Size and Shape. An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the dimensions shown in the following table:

Table 17.101G.06: Required Dimensions of Usable Open Space

Type of Usable Open Space	Minimum Dimension or Size	Notes
Private	10 ft. for space on the ground floor, no dimensional requirement elsewhere.	
Public Ground-Floor Plaza	10 ft.	

Type of Usable Open Space	Minimum Dimension or Size	Notes
Rooftop	15 ft.	Areas occupied by vents or other structures which do not enhance usability of the space shall not be counted toward this dimension.
Courtyard	15 ft.	
Off-Site Open Space	10 ft.	
Community Room	250 square feet	

3. Openness. Except for indoor Community Rooms, there shall be no obstructions above the space except for devices to enhance its usability, such as pergola or awning structures. There shall be no obstructions over ground-level private usable open space except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level private usable open space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.
4. Location. Required usable open space may be located anywhere on the lot except that not more than fifty percent (50%) of the required area may be located on the uppermost roof of any building. There is no limitation on rooftop open space on rooftop podiums that are not the uppermost roof of a building.
5. Usability. A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt or other serviceable, dust-free surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected whenever necessary for space on a roof, but shall not be more than four (4) feet high.
6. Accessibility. Usable open space, other than private usable open space, shall be accessible to all the living units on the lot. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room. Private usable open space may be located anywhere on the lot except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All private usable open space shall be adjacent to, and not more than four feet above or below the floor level of, the living unit served. Private usable open space shall be accessible to only one living unit by a doorway to a habitable room or hallway.

D. Landscaping requirements. At least fifty percent (50%) of rooftop or courtyard usable open space area shall include landscaping enhancements. At least thirty percent (30%) of public ground floor plaza shall include landscaping enhancements. Landscaping enhancements shall consist of permanent features, such as trees, shrubbery, decorative planting containers, fountains, boulders or artwork (sculptures, etc.) The remainder of the space shall include user amenities such as seating, decorative paving, sidewalk cafes, or playground structures.

E. In-Lieu Fee. The open space requirements of this Section may be reduced or waived upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and payment of an in-lieu fee to the City of Oakland to be used to pay for new public open space/plaza(s) or existing public open space/plaza(s) improvements. The open space in-lieu fee shall be as set forth in the Master Fee Schedule. Open space in-lieu fees shall be deposited with the City of Oakland prior to issuance of a building permit. An open space in-lieu fee may be refunded, without interest, to the person who made such payment, or his assignee or designee, if additional open space is provided for such building so as to satisfy the open space requirement for which the in-lieu payment was made. To obtain a refund, the required open space must be in place prior to issuance of a certificate of occupancy and before funds are spent or committed by the City.

F. Variances. Notwithstanding anything to the contrary contained in the Planning Code, variances may not be granted relating to (a) a reduction and/or elimination of any open space; or (b) a reduction and/or elimination of any open space serving any activity, or if already less than currently required open space, shall not be reduced further below the requirements prescribed for such activity in this Chapter. The granting of a CUP (see Chapter 17.134 for the CUP procedure) and payment of the in-lieu fee shall be the sole means of reducing or eliminating open space.

17.101G.070 Special regulations for large-scale developments.

No development which involves more than one hundred thousand (100,000) square feet of new floor area shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

17.101G.080 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 D-LM Zones.

F. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the D-LM Zones.

Chapter 17.101H D-CO COLISEUM AREA DISTRICT ZONES REGULATIONS

Sections:

17.101H.010 Title, intent, and description.

17.101H.020 Required design review.

17.101H.030 Permitted and conditionally permitted activities.

17.101H.040 Permitted and conditionally permitted facilities.

17.101H.050 Property development standards.

17.101H.060 Special regulations applying to mixed-use developments on Bay Area Rapid Transit (BART) stations on sites with one (1) acre or more land area.

17.101H.070 Use permit criteria in the D-CO-1 Zone.

17.101H.080 Special regulations for large-scale developments.

17.101H.090 Special regulations for Mini-lot and Planned Unit Developments.

17.101H.095 Compliance with Oakland Airport Land Use Compatibility Plan

17.101H.100 Other zoning provisions.

17.101H.010 Title, intent, and description.

A. Title and Intent. The provisions of this Chapter shall be known as the D-CO Coliseum Area District Zones Regulations. The intent of the Coliseum Area District (D-CO) Zones is to:

B. Description of Zones. This Chapter establishes land use regulations for the following six (6) zones:

1. **D-CO-1 Coliseum Area Transit-Oriented Development District - 1 Zone (Coliseum BART/ San Leandro Street).** The D-CO-1 Zone is intended to create, preserve and enhance areas devoted primarily to serve multiple nodes of transportation and to feature high-density residential, commercial, and mixed-use developments, to encourage a balance of pedestrian-oriented activities, transit opportunities, and concentrated development; and encourage a safe and pleasant pedestrian environment near transit stations by allowing a mixture of Residential, Civic, Commercial, and Light Industrial Activities.

2. **D-CO-2 Coliseum Area Commercial District - 2 Zone (Coliseum District).** The D-CO-2 Zone is intended to create, maintain and enhance areas that allow a broad mixture of residential, retail, commercial, office, and light industrial uses, and serve as region-drawing centers of sports, entertainment, and business activities.

3. **D-CO-3 Coliseum Area Commercial District - 3 Zone (Oakport South / Hegenberger Road).** The D-CO-3 Zone is intended to create, maintain and enhance areas suitable for a wide variety of retail, commercial, and industrial operations along the Oakport Street and Hegenberger Road corridors, and in region-drawing centers of Commercial, and Light Industrial Activities.

4. **D-CO-4 Coliseum Area Commercial District - 4 Zone (Edgewater North / Waterfront).** The D-CO-4 Zone is intended to create, maintain and enhance a mix of activities on or near the Northwest Edgewater Drive waterfront. This zone allows for the consideration of housing, if shown to be compatible in an area with a strong presence of Commercial and Industrial Activities.
5. **D-CO-5 Coliseum Area Commercial Industrial Mix District - 5 Zone (Edgewater South / Pardee Drive**). The D-CO-5 Zone is intended to create, preserve, and enhance areas near Pardee Drive and within the southern portion of the Airport Business Park that are appropriate for a wide variety of Office, Commercial, Industrial, and Logistics Activities.
6. **D-CO-6 Coliseum Area Commercial Industrial Mix District - 6 Zone (Oakport North).** The D-CO-6 Zone is intended to apply to commercial, industrial and institutional areas with strong locational advantages that make possible the attraction of higher intensity commercial and light industrial land uses and development types.

17.101H.020 Required design review.

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, 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. Properties located within the Land Use Jurisdiction of the Port of Oakland, as amended, are subject to the Port's Land Use and Development Code, which supersedes the Oakland Planning Code in areas of the Port's jurisdiction,

B. In addition to the design review criteria listed in Chapter 17.136, conformance with the design review guidelines in the Coliseum Area Specific Plan is required for any proposal in the D-CO Zones subject to the design review procedure in Chapter 17.136.

C. Where there is a conflict between the design review criteria contained in Chapter 17.136 and the design review guidelines contained in the Coliseum Area Specific Plan, the design objectives in the Coliseum Area Specific Plan shall prevail.

17.101H.030 Permitted and conditionally permitted activities.

Table 17.101H.01 lists the permitted, conditionally permitted, and prohibited activities in the D-CO zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.10.040.

Table 17.101H.01: Permitted and Conditionally Permitted Activities

Activities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Residential Activities							
Permanent	P	P	—	C(L4)	—	—	
Residential Care	P(L1)	P(L1)	—	C(L1)(L4)	—	—	17.103.010
Supportive Housing	P	P	—	C(L4)	—	—	
Transitional Housing	P	P	—	C(L4)	—	—	
Emergency Shelter	—	—	—	—	—	—	17.103.010
Semi-Transient	C	C	—	—	—	—	17.103.010
Bed and Breakfast	—	—	—	—	—	—	17.10.125
Civic Activities							
Essential Service	P	P	P	P	P	P	
Limited Child-Care Activities	P	P	C	C(L6)	—	—	
Community Assembly	C	C	C	C	C	C	
Recreational Assembly	P	P	P	P	C	C	
Community Education	P	P	C	C	—	C	
Nonassembly	P	P	P	P	C	C	

Activities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Cultural							
Administrative	P	P	P	P	C	C	
Health Care	C	C	C	C	—	—	
Special Health Care	—	—	—	—	—	—	
Utility and Vehicular	C	C	C	C	C	C	
Extensive Impact	C	C	C(L5)	C	C	C	
Commercial Activities							
General Food Sales	P	P	P	P(L2)	P(L2)	P(L2)	
Full Service Restaurants	P	P	P	P(L2)	P(L2)	P(L2)	
Limited Service Restaurant and Cafe	P	P	P	P(L2)	P(L2)	P(L2)	
Fast-Food Restaurant	C	C	C	—	—	—	17.103.030 and 8.09
Convenience Market	C	C	C	C	—	C	17.103.030
Alcoholic Beverage Sales	C	C	C	C	—	—	17.103.030 and 17.114.030

Activities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Mechanical or Electronic Games	C	P	C(L6)	—	—	—	
Medical Service	P	P	C	C	C	C	
General Retail Sales	P	P	P	P	C(L10)	P	
Large-Scale Combined Retail and Grocery Sales	—	C	—	—	—	—	
Consumer Service	P(L8)	P(L8)	P(L8)	P(L8)	C	C	17.102.170 and 17.102.450
Consultative and Financial Service	P	P	P	P	—	—	
Check Cashier and Check Cashing	—	—	—	—	—	—	17.103.040
Consumer Cleaning and Repair Service	P	P	P	P	—	—	
Consumer Dry Cleaning Plant	C	C	C	C	—	—	
Group Assembly	P(L14)	P(L14)	C(L14)	C(L14)	C(L14)	C(L14)	
Personal Instruction and Improvement Services	P	P	P	C	C	C	

Activities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Administrative	P	P	P	P	P	P	
Business, Communication, and Media Services	P	P	P	P	P	P	
Broadcasting and Recording Services	P	P	P	P	P	P	
Research Service	P	P	P	P	P	P	
General Wholesale Sales	P(L2)	P(L2)	P(L3)	P(L2)	P	P(L2)	
Transient Habitation (Hotels)	C	C	C	C	—	C	17.103.050
Building Material Sales	—	—	—	—	C	—	
Automobile and Other Light Vehicle Sales and Rental	C	C	C	—	—	C	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	C(L11)	—	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	C(L11)	—	—	—	
Taxi and Light Fleet-Based Services	—	—	—	—	—	—	

Activities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Automotive Fee Parking	C	C	C(L11)(L15)	C	C	C	
Animal Boarding	—	—	C(L11)(L13)	—	—	—	
Animal Care	C	C	C	—	—	—	
Undertaking Service	—	—	—	—	—	—	
Industrial Activities							
Custom Manufacturing	P	P	P	P	P	P	17.120
Light Manufacturing	C	P	P	P(L3)	P	P	17.120
General Manufacturing	—	—		—	C(L11)(L13)	—	
Heavy/High Impact	—	—	—	—	—	—	
Research and Development	P	P	P	P	P	P	
Construction Operations	—	—	—	—	C	—	
Warehousing, Storage, and Distribution-Related:							
A. General Warehousing, Storage and Distribution	—	P(L3)(L9)	P(L9)	P(L3)(L9)	P(L9)	P(L9)	

Activities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
B. General Outdoor Storage	—	—	—	—	C(L11)(L13)	C(L13)	
C. Self- or Mini-Storage	—	—	—	—	C(L11)	—	
D. Container Storage	—	—	—	—	—	—	
E. Salvage/Junk Yards	—	—	—	—	—	—	
Regional Freight Transportation-Related:							
A. Seaport	—	—	—	—	—	—	
B. Rail Yard	—	—	—	—	—	—	
Trucking and Truck-Related:							
A. Freight/Truck Terminal	—	—	—	—	C(L7)	—	
B. Truck Yard	—	—	—	—	C(L7)	—	
C. Truck Weigh Stations	—	—	—	—	C(L7)	—	
D. Truck & Other Heavy Vehicle Sales, Rental & Leasing	—	—	—	—	C(L7)	—	
E. Truck & Other Heavy Vehicle Service, Repair, and	—	—	—	—	C(L7)	—	

Activities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Refueling							
Recycling and Waste-Related:							
A. Satellite Recycling Collection Centers	—	—	—	—	—	—	
B. Primary Recycling Collection Centers	—	—	—	—	—	—	17.73.035
Hazardous Materials Production, Storage, and Waste Management-Related:							
A. Small Scale Transfer and Storage	—	—	—	—	—	—	
B. Industrial Transfer/Storage	—	—	—	—	—	—	
C. Residuals Repositories	—	—	—	—	—	—	
D. Oil and Gas Storage	—	—	—	—	—	—	
Agriculture and Extractive Activities							
Limited Agriculture	P(L16)	P(L16)	P(L16)	P(L16)	P(L16)	P(L16)	
Extensive Agriculture	C(L17)	C(L17)	C(L17)	C(L17)	C(L17)	C(L17)	
Plant Nursery	—	C	C	C	C(L12)	C(L12)	

Activities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Mining and Quarrying	—	—	—	—	—	—	
Accessory off-street parking serving prohibited activities	C	C	C	C	C	C	17.116.175
Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof.	C	C	C	C	C	C	17.102.110

Limitations on Table 17.101H.01:

L1. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L2. 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 for the CUP procedure).

L3. 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 for the CUP procedure).

L4. This activity is only permitted 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 all of the following additional use permit criteria:

1. That the project is designed in a way that minimizes the potential health impacts of locating a residential use near the surrounding activities;

2. That new development will meet residential environmental safety standards;

3. That the design of the development accounts for the projected rise in sea levels and the potential for inundation by the Bay and other flood waters in a manner that protects both human infrastructure as well as the natural aquatic resources of San Leandro Bay;

4. That avigation easements for the Oakland International Airport will be negotiated with future owners or tenants, and deed disclosures about proximity to Airport operations will be made; and

5. That measures that minimize adverse impacts to the surrounding activities have been incorporated into the project.

L5. The Extensive Impact Civic Activity category includes, but is not limited to, stadiums and sports arenas (see Section 17.10.240.Q). In the D-CO-3 Zone, stadiums and sports arenas are only allowed in the area between Damon Slough and Elmhurst Creek.

L6. Conditionally permitted if located in the D-CO-3 or D-CO-4 Zones between Damon Slough and Elmhurst Creek; prohibited if located elsewhere in the D-CO-3 or D-CO-4 Zones (see Chapter 17.134 for the CUP procedure).

L7. In the D-CO-5 Zone, these activities are only allowed in the area between San Leandro Creek and Doolittle Drive.

L8. See Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to Laundromats.

L9. 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 for the CUP procedure).

L10. Permitted outright if located within five hundred (500) feet of Highway 880 or Hegenberger Road; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure).

L11. These activities are not permitted within three hundred (300) feet of a lot line adjacent to the Hegenberger Road right-of-way.

L12. This activity is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and that all repair and servicing is performed in an enclosed building.

L13. Any Outdoor Storage activities to be located within three hundred (300) feet of: a) the Oakport Street right-of-way; b) the Estuary or Bay shoreline; c) the Damon Slough, Elmhurst Creek, East Creek Slough, or San Leandro Creek top of bank; or d) any Open Space Zone shall only be permitted 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 all of the following additional use permit criteria:

1. The activity is screened in a manner as determined by the Planning Director, including but not limited to, buffer planting installed along the site exterior; and

2. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding district in terms of noise, water and pollutant runoff, heavy equipment operation, hours of operation, odor, security, and vehicular traffic.

L14. No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L15. Existing fee parking lots within three hundred (300) feet of a lot line adjacent to the Hegenberger Road right-of-way may be reconfigured to increase the number of parking spaces and make more efficient use of the existing parking area. Expansion of existing facilities to include structured parking or expanding the size of the parcel with the parking constitutes an expansion of a nonconforming use and is not permitted.

L16. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure).

L17. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

17.101H.040 Permitted and conditionally permitted facilities.

Table 17.101H.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-CO Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

Table 17.101H.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Residential Facilities							
One-Family Dwelling	—	—	—	—	—	—	

Facilities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
One-Family Dwelling with Secondary Unit	—	—	—	—	—	—	17.103.080
Two-Family Dwelling	P	P	—	C	—	—	
Multifamily Dwelling	P	P	—	C	—	—	
Rooming House	—	—	—	—	—	—	
Mobile Home	—	—	—	—	—	—	
Nonresidential Facilities							
Enclosed Nonresidential	P	P	P	P	P	P	
Open Nonresidential	C(L1)	P	P	C(L1)	P	P	
Sidewalk Cafe	P	P	P	P	C	C	17.103.090
Drive-In	—	C	C	—	—	—	
Drive-Through	—	C(L2)	C(L2)	—	—	—	17.103.100
Telecommunications Facilities							
Micro Telecommunications	P(L3)	P(L3)	P(L3)	P(L3)	P(L3)	P(L3)	17.128
Mini Telecommunications	P(L3)	P(L3)	P(L3)	P(L3)	P(L3)	P(L3)	17.128
Macro Telecommunications	C	C	C	C	C	C	17.128
Monopole Telecommunications	C	C	C	C	C	C	17.128
Tower Telecommunications	—	—	—	—	—	—	17.128

Facilities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Sign Facilities							
Residential Signs	P	P	—	P	—	—	17.104
Special Signs	P	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	P	17.104
Realty Signs	P	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	P	17.104
Business Signs	P	P	P	P	P	P	17.104
Advertising Signs	—	—	—	—	—	—	17.104

Limitations on Table 17.101H.02:

L1. No Conditional Use Permit (CUP) is required for Open Nonresidential Facilities to accommodate Civic Activities, Limited Agriculture, seasonal sales, or special events.

L2. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than three hundred (300) feet of a lot line adjacent to the Hegenberger Road or Oakport Street right-of-way; or five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

L3. See Section 17.128.025 for restrictions on Telecommunication Facilities near Residential Zones.

17.101H.050 Property development standards.

Zone Specific Standards. Table 17.101H.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the regulation is not applicable to the specified zone.

Table 17.101H.03 Property Development Standards

Development Standards	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Minimum Lot Dimensions							
Lot Width mean	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	1
Frontage	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	1
Lot area	4,000 sf.	5,000 sf.	5,000 sf.	5,000 sf.	10,O00 sf.	10,000 sf.	1
Minimum/Maximum Setbacks							
Minimum front	0 ft.	0 ft.	0/10 ft.	0 ft.	10 ft.	0/10 ft.	2
Minimum interior side	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	2
Minimum street side of a corner lot	0 ft.	0 ft.	0 ft.	0 ft.	10 ft.	10 ft.	2
Rear (Residential Facilities)	10 ft.	10 ft.	N/A	10 ft.	N/A	N/A	2, 3
Rear (Nonresidential Facilities)	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	3
Height Regulations							
Maximum height	159 ft.	159 ft.	159 ft.	85 ft.	85 ft.	85 ft.	4, 5, 6 Exceptions to the maximum height of 159 feet may be allowed in D-

Development Standards	**Zones**						**Additional Regulations**
	D-CO-1	**D-CO-2**	**D-CO-3**	**D-CO-4**	**D-CO-5**	**D-CO-6**	
							CO-1, -2, and -3, pursuant to the additional regulations in this Table
Fence heights & other regulations	See Chapter 17.108.140 for fences, dense hedges, barriers, & free standing walls.						
Maximum fence height adjacent to Open Space zones	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	
Maximum Residential Density (square feet of lot area required per dwelling unit)							
Regular Units	130	130	N/A	260	N/A	N/A	
Development Standards	Zones						Additional Regulations
	D-CO-1	**D-CO-2**	**D-CO-3**	**D-CO-4**	**D-CO-5**	**D-CO-6**	
Rooming Units	65	65	N/A	130	N/A	N/A	
Maximum Nonresidential Intensity (Floor Area Ratio)							
Maximum Nonresidential Floor Area Ratio (FAR)	8.0	8.0	6.0	5.0	4.0	4.0	
Minimum Usable Open Space							
Usable Open Space per Regular Dwelling	75 sf.	75 sf.	N/A	100 sf.	N/A	N/A	

Development Standards	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Unit							
Usable open space per Rooming Unit	38 sf.	38 sf.	N/A	50 sf.	N/A	N/A	
Minimum Parking and Loading Requirements	See Chapter 17.116 for automobile parking and loading regulations; and Chapter 17.117 for bicycle parking regulations						
Courtyard Regulations	See Sec. 17.108. 120	See Sec. 17.108.120	N/A	See Sec. 17.108.120	N/A	N/A	
Landscaping Regulations							
Site landscaping (% of entire lot area)	See Chs.17.110 and 17.124	See Chs.17.110 and 17.124	5%	See Chs.17.110 and 17.124	5%	5%	7, 8, 9
Parking lot landscaping (% of parking lot area)	See Chs.17.110 and 17.124	See Chs.17.110 and 17.124	10%	See Chs.17.110 and 17.124	10%	10%	7, 8

Additional Regulations for Table 17.101H.03:

1. See Section 17.106.010 and 17.106.020 for exceptions to lot area, lot width mean, and street frontage regulations.

2. In the D-CO-3 Zone, a minimum front yard setback area of ten (10) feet shall apply to frontages adjacent to the Hegenberger Road and Oakport Street right-of-way, except for retail and similar facilities oriented toward pedestrian activity. This minimum front yard in the D-CO-3 Zone, where applicable, shall be developed as open landscaped areas, including but not limited to lawn, ground cover, shrubs, trees, and decorative paving materials, subject to the standards for required landscaping and screening in Chapter 17.124. In the D-CO-1, D-CO-2, and D-CO-4 Zones, see Section 17.108.080 for the required interior side and rear yard setbacks on a lot containing two (2) or more living units and opposite a legally required living room window.

3. In the D-CO-1, D-CO-2, and D-CO-4 Zones, wherever a rear lot line abuts an alley, one-half (½) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

4. The height of all structures shall be subject to Federal Aviation Administration (FAA) regulations.

5. Exceptions to Height Standards. In D-CO-1, D-CO-2, and D-CO-3, buildings and structures may be allowed to exceed the maximum height of one hundred fifty nine (159) feet above mean sea level and the maximum applicable Federal Aviation Regulations (FAR) Part 77 surfaces of the Oakland International Airport Land Use Compatibility Plan in the following situation only:

a) The proposed structure has been reviewed by the FAA in accordance with FAR Part 77 and the City receives:

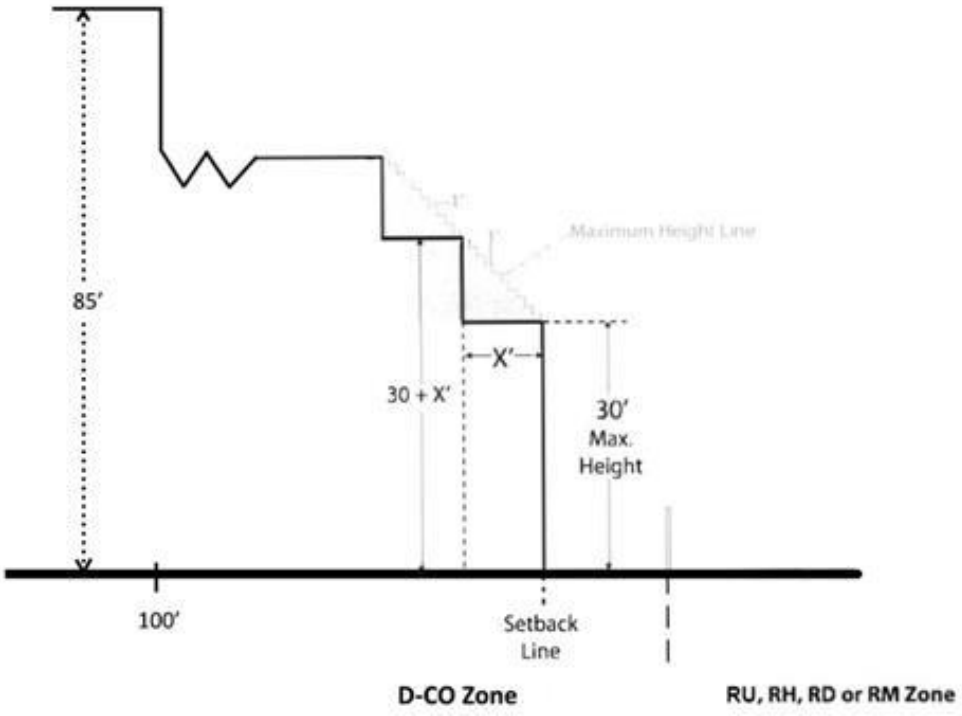
i) An FAA finding that the structure is “No Hazard To Air Navigation” and would not result in the FAA altering, curtailing, limiting, or restricting flight operations in any manner; and an Alameda County Airport Land Use Commission (ALUC) determination that the proposed structure is consistent with the Oakland International Airport Land Use Compatibility Plan (ALUCP); and

ii) Agreement from the applicant to mark and light that structure in a manner consistent with FAA standards; and

b) The additional height has received approval pursuant to the City’s conditional use permit procedure (see Chapter 17.134).

6. Buildings shall have an eighty-five (85) foot maximum height when located within one hundred (100 feet) of any lot line that abuts a lot in a RH, RD, RM, RU, or S-15 Zone. In addition, buildings shall have a thirty (30) foot maximum height at the setback line associated with any rear or interior side lot line that abuts a lot in a RH, RD, RM, or RU Zone; this maximum height shall increase one (1) foot for every foot of distance away from this setback line (see Illustration for Table 17.101H.03 [Additional Regulation 6], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

Illustration for Table 17.101H.03 [Additional Regulation 6]
*for illustration purposes only



7. All projects which involve the construction of a new Nonresidential Facility, or the addition to an existing Nonresidential Facility of over one thousand (1,000) square feet, shall comply with the landscape requirements in this Chapter and in Chapter 17.124. Landscaping shall consist of pervious surface with lawn, ground cover, shrubs, permeable paving materials, and/or trees and which is irrigated and maintained. See Chapter 17.124 and Section 17.124.025 for other Landscaping and Screening Standards.

8. Parking Lot Landscaping applies only to lots associated with new construction of more than ten thousand (10,000) square feet of floor area. Shade trees shall be provided at a ratio of one (1) tree for every ten (10) spaces through the parking lot. A minimum of ten percent (10%) of a surface parking lot shall be landscaped accompanied by an irrigation system that is permanent, below grade and activated by automatic timing controls which may be provided entirely in permeable surfacing in lieu of irrigated landscaping if approved through the Design Review process (see Chapter 17.136). Parking lots located adjacent to a public right-of-way shall include screening consisting of a minimum of five (5) foot deep planted area or a three (3) foot tall opaque, concrete, or masonry wall with a minimum three (3) foot deep planted area. Chain link, cyclone, and barbed wire fencing is prohibited in all cases.

9. For all projects involving the construction of a new Nonresidential Facility, or the addition to an existing Nonresidential Facility of over one thousand (1,000) square feet, street trees are required (see Chapter 17.124 and Section 17.124.025 for other Landscaping and Screening Standards). In addition to the general landscaping requirements set forth above, a minimum of one (1) 15-gallon tree, or substantially equivalent landscaping consistent with City policy and as approved by the Director of City Planning, shall be provided for every twenty (20) feet of street frontage or portion thereof and, if a curbside planting strip exists, for every twenty-five (25) feet

of street frontage. 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 (6½) feet, the trees to be provided shall include street trees to the satisfaction of the Tree Division.

17.101H.060 Special regulations applying to mixed-use developments on Bay Area Rapid Transit (BART) stations on sites with one (1) acre or more land area.

No mixed-use developments that include Bay Area Rapid Transit (BART) stations located on sites with one (1) acre or more land area shall be permitted except upon the granting of a conditional use permit pursuant to Section 17.101H.070 and the conditional use permit procedure in Chapter 17.134 or upon the granting of a Planned Unit Development (PUD) permit pursuant to Chapters 17.140 and 17.142, and shall be subject to the following special regulations:

A. Intermodal Activities and Pedestrian Plaza. Developments should incorporate multiple forms of public transportation and a pedestrian plaza.

B. Professional Design. The application shall utilize the following professionals in the design process for the development:

   1. An architect licensed by the state of California; and

   2. A landscape architect licensed by the state of California, or an urban planner holding or capable of holding membership in the American Institute of Certified Planners.

C. Undergrounding of Utilities. All electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities shall be placed underground by the developer as required by the City. Electric and telephone facilities shall be installed in accordance with standard specifications of the serving utilities. Street lighting and fire alarm facilities shall be installed in accordance with standard specifications of the Electrical Department.

D. Performance Bonds. The City Planning Commission or, on appeal, the City Council may, as a condition of approval of any said development, require a cash bond or surety bond for the completion of all or specified parts of the development deemed to be essential to the achievement of the purposes set forth in Section 17.101H.060. The bond shall be in a form approved by the City Attorney, in a sum of one hundred fifty percent (150%) of the estimated cost of the work, and conditioned upon the faithful performance of the work specified within the time specified. This requirement shall not apply if evidence is provided to the city which indicates that alternative bonding or other assurances have been secured by the Bay Area Rapid Transit District.

17.101H.070 Use permit criteria in the D-CO-1 Zone.

In the D-CO-1 Zone, a conditional use permit for any activity or facility listed in Sections 17.101H.030, 17.101H.040, and 17.101H.060, may 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 proposal will be of a quality and character which harmonizes with and serves to protect the value of private and public investment in the area;

B. That the proposal will encourage an appropriate mixture of Residential and/or Commercial Activities in a manner which promotes and enhances use of multiple modes of transportation;

C. That the proposal is designed to provide a safe and pleasant pedestrian environment;

D. That no front yard parking, loading area, or driveway shall connect or abut directly with the principal commercial street unless the determination can be made:

1. That vehicular access cannot reasonably be provided from a different street or other way;

2. That every reasonable effort has been made to share means of vehicular access with abutting properties;

3. That the proposal is enclosed or screened from view of the abutting principal street by the measures required in Section 17.110.040B.

E. That the amount of off-street parking, if any, provided in excess of this code will not contribute significantly to an increased orientation of the area to automobile or truck movement.

F. In addition to the foregoing criteria and any other applicable requirements, auto fee parking within this zone shall be subject to the following additional use permit criteria:

1. The auto fee parking is part of a larger development that contains a significant amount of commercial and/or residential facilities;

2. The auto fee parking is contained in a structured parking facility of at least three stories that replaces an existing at-grade parking facility;

3. The new parking structure represents no more than a seventy-five percent (75%) increase of existing parking at the site;

4. Auto fee parking at the site is designed to promote a transit oriented district as defined by the general plan;

5. Where feasible, the auto fee parking is located behind and substantially visually obstructed from the principal street(s) by the residential and/or commercial facility or facilities; and

6. The project shall be consistent in all significant respects with the general plan's goals, objectives, and policies that promote transit oriented development and districts.

For purposes of Subsection 17.101H.100(F), "principal street" means the street or streets on which the development is most primarily oriented and that is appropriately designated in the general plan to accommodate the amount of trips proposed. On an interior lot, the principal street shall be the street in front of the development. On a corner lot, the principal streets shall be both the streets adjacent to the development. On a lot that has frontage on three (3) or more streets, at least two (2) streets shall be designated as principal streets.

17.101H.080 Special regulations for large-scale developments.

No development which involves more than one hundred thousand (100,000) square feet of new floor area shall be permitted except upon the granting of a conditional use permit pursuant

to the conditional use permit procedure in Chapter 17.134, or upon the granting of a planned unit development approval pursuant to Chapters 17.140 and 17.142.

17.101H.090 Special regulations for Mini-lot and Planned Unit Developments.

A. **Mini-lot Developments.** In Mini-Lot Developments, certain regulations that apply to individual lots in the D-CO Zones may be waived or modified when and as prescribed in Chapter 17.142.

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 D-CO Zones, and certain of the other regulations applying in said zones may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

17.101H.095 Compliance with Oakland Airport Land Use Compatibility Plan.

The Oakland International Airport Land Use Compatibility Plan (ALUCP) details the types of development inside the Airport Influence Area (the land west of San Leandro Street) which are to be reviewed by the Alameda County Airport Land Use Commission (ALUC). New development in any D-CO Zone which meets the definitions of Section 2.6.2 “Land Use Actions Recommended for ALUC review” is to follow the review process in the Airport Land Use Compatibility Plan.

17.101H.100 Other zoning provisions.

The following contains referrals to other regulations that may apply:

A. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.103, 17.104, 17.106, and 17.108 shall apply in the D-CO Zones.

B. 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.

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

D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the D-CO Zones.

E. Landscaping and Screening Standards. The regulations set forth in Chapter 17.124 and Chapter 17.102.400, screening of utility meters, etc., shall apply in the D-CO Zones.

F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

G. Performance standards regarding the control of noise, odor, smoke, and other objectionable impacts in Chapter 17.120 shall apply in the D-CO Zones.

Chapter 17.102 REGULATIONS APPLICABLE TO CERTAIN ACTIVITIES AND FACILITIES

Sections:

17.102.010 Title, purpose, and applicability.

17.102.020—17.102.080 Reserved.

17.102.090 Shared access facilities.

17.102.100 Reserved.

17.102.110 Expansion of use into adjacent zones.

17.102.120 Removal of dirt or other minerals—Residential and S-1, S-2, S-3 and OS Zones.

17.102.130 Reserved.

17.102.140 Private stables and corrals.

17.102.160 Adult Entertainment Activities.

17.102.170 Massage Activities.

17.102.180 Restriction on vertical location of activities in buildings containing both Residential and Nonresidential Activities—Commercial Zones.

17.102.190 Joint Living and Work Quarters.

17.102.195 Residentially-Oriented Joint Living and Working Quarters.

17.102.200 Pedestrian bridges constructed over City streets.

17.102.210—17.102.220 Reserved.

17.102.230 Demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity—Nonresidential Zones.

17.102.240 Microwave and satellite dishes over three (3) feet in diameter located in or near Residential Zones.

17.102.250—17.102.265 Reserved.

17.102.270 An additional kitchen for a single dwelling unit.

17.102.280, 17.102.290 Reserved.

17.102.300 Dwelling units with five (5) or more bedrooms.

17.102.310—17.102.335 Reserved.

17.102.340 Electroplating Activities in the Industrial Zones.

17.102.350 Tobacco-oriented activities.

17.102.360—17.102.390 Reserved.

17.102.400 Exterior security bars and related devices.

17.102.420—17.102.430 Reserved.

17.102.440 Crematories.

17.102.450 Laundromats.

17.102.010 Title, purpose, and applicability.

The provisions of this Chapter and Chapters 17.104 through 17.108 shall be known as the Regulations Applicable to Certain Activities and Facilities. The purpose of these provisions is to set forth certain of the regulations which apply throughout the City or in several zones. These regulations shall apply in the zones and situations specified hereinafter.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 7000)

17.102.020—17.102.080 Reserved.

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Sections 17.102.020, 17.102.040, 17.102.070, and 17.102.080 in their entirety, which pertained to supplemental zoning provisions, effect of prior permits, application of zoning regulations to lots divided by zone boundaries, and permitted and conditionally permitted uses, respectively, and derived from the prior planning code, §§ 7001, 7003, 7006, 7008; Ord. No. 12872, § 4, adopted 2008, and Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011.

17.102.090 Shared access facilities.

A. Use Permit Required. A shared access facility shall be allowed only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134

B. Use Permit Criteria. A conditional use permit under this Section may 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 all of the following additional use permit criteria:

1. Compliance with Guidelines. Each shared access facility proposal shall be in compliance with all applicable City standards, including but not limited to the City Planning Commission guidelines for development and evaluation of shared access facilities.

2. Public Safety. The width of a shared access facility shall be adequate to ensure unimpeded emergency and nonemergency ingress and egress at all times. Additionally, the shared access facility shall conform to City standards for roadway layout and design.

3. Aesthetics. A shared access facility shall be designed to provide the environmentally superior alternative to other approaches for the development of the property and shall be designed to be visually compatible with its surroundings, as set forth in the City Planning Commission guidelines; necessary retaining walls shall not be of excessive height and shall not be visibly obtrusive, as such are defined in the City Planning Commission guidelines.

4. On-Going Owner Responsibility. Applicants for a shared access facility shall submit, for approval, an agreement for access facility maintenance, parking restrictions, and landscape maintenance. Upon staff approval, the proposed agreement shall be recorded by the applicant within thirty (30) days with the Alameda County Recorder. In addition, applicants for a shared access facility shall provide documentation of continuing liability insurance coverage. Documentation of insurance coverage shall include the written undertaking of each insurer to give the City thirty (30) days' prior written notice of cancellation, termination, or material change of such insurance coverage.
5. Certification. Prior to construction, applicants for a shared access facility shall retain a California registered professional civil engineer to certify, upon completion, that the access facility was constructed in accordance with the approved plans and construction standards. This requirement may be modified or waived at the discretion of the Director of Public Works, based on the topography or geotechnical considerations. An applicant may also be required to show assurance of performance bonding for grading and other associated improvements. In addition, prior to the installation of landscaping, an applicant shall retain a landscape architect or other qualified individual to certify, upon completion, that landscaping was installed in accordance with the approved landscape plan.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 7010)

17.102.100 Reserved.

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Section 17.102.100 in its entirety, which pertained to conditions for accessory parking serving activities which are not themselves allowed, and derived from the prior planning code, § 7011.

17.102.110 Expansion of use into adjacent zones.

The following standards and criteria shall apply when the applicable individual zone regulations conditionally permit activities that are prohibited in the subject zone, but permitted or conditionally permitted on nearby lots in an adjacent zone.

A. A conditional use permit for such a use may 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 the following additional use permit criteria:
    1. That the location, size, design, and other characteristics of the entire use as proposed will substantially improve or provide superior environmental relationships among all uses in the immediate vicinity.
    2. That the design and site planning of all buildings, open areas, parking, service areas, paths, stairways, accessways, corridors, and balconies will be so designed as to not adversely affect the privacy, safety, or environmental amenities of adjacent properties.

3. That within the expansion area every reasonable effort will be undertaken to preserve natural grades, topographic features, watercourses, and significant landscape features.

B. The following standards shall also apply:

1. Such uses shall be allowed only when they constitute an expansion of or are a part of an existing or proposed activity or facility which is located in or partially located in the adjacent zone, and is permitted or conditionally permitted therein. Such uses shall be allowed only on a lot, or one of a series of lots under one (1) ownership, directly contiguous to the lot in the adjacent zone, with no intervening streets.

2. Maximum Distance from Zone Boundary. Such uses shall not extend more than one hundred fifty (150) feet into the zone, as measured perpendicularly from the zone boundary at any point.

3. Height. Within the area of the allowed expansion, the maximum height of any building or facility shall not exceed the maximum height permitted on abutting lots.

4. Increased Yard Areas. The minimum yard depth or width, as the case may be, for buildings within the expansion area shall be no less than one hundred fifty percent (150%) of the yard depth or width, if any, required for uses on those properties abutting the expansion area.

5. Screening and Buffering. The exterior perimeter of the expansion area shall be provided with screening and buffering devices including, but not limited to, established trees.

6. Maximum Density. The number of living units on any lot or series of lots involved in the expansion of use shall be calculated separately on the basis of the amount of lot area and the density ratio applying in each of the affected zones. The maximum number of living units allowed in the proposed development shall not exceed the accumulative total resulting from adding the density calculations for each of the lot areas and zones involved in the expansion.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 7012)

17.102.120 Removal of dirt or other minerals—Residential and S-1, S-2, S-3 and OS Zones.

In all Residential Zones and in the S-1, S-2, S-3 and OS Zones, no grading or excavation shall involve the removal of any soil, rock, sand, or other material for purposes of sale, fill, building, or other construction usage off the premises, unless a conditional use is granted pursuant to the conditional use permit procedure in Chapter 17.134. However, excavations in any street, alley, or other public place and excavations for foundations, basements, or cellars for the erection of any buildings for which a building permit has been issued shall be exempt from the above restriction.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12078 § 5 (part), 1998; prior planning code § 7013)

17.102.130 Reserved.

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Section 17.102.130 in its entirety, which pertained to time limit on operation of subdivision sales offices—residential zones, and derived from the prior planning code, § 7014.

17.102.140 Private stables and corrals.

The following regulations shall apply in all zones to private stables, corrals, and similar facilities and to the keeping or training of horses, mules, or donkeys as an accessory activity:

A. Conditional Use Permit Requirement. Such uses are permitted only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134

B. Maximum Number of Animals. No more than three (3) such horses, mules, or donkeys shall be kept or trained on any single lot.

C. Minimum Lot Area. Such uses shall not in any case be located on any lot having a lot area of less than twenty-five thousand (25,000) square feet.

D. Location on Lot. No such stable, corral, or paddock shall be located within thirty (30) feet from any lot line.

E. Screening. All open portions of such facilities shall be screened from abutting lots, streets, alleys, and paths, and from the private ways described in Section 17.106.020, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter.

F. See Oakland Municipal Code (OMC) Chapter 6.04 for additional regulations for animal quarters.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; prior planning code § 7015)

17.102.160 Adult Entertainment Activities.

A. Conditional Use Permit Requirement. Adult Entertainment Activities are not permitted in any zone except upon the granting of a conditional use permit pursuant to the criteria in Subsection B. of this Section (which supersedes the general criteria in Section 17.134.050) and the conditional use procedure in Chapter 17.134.

B. Conditional Use Permit Criteria. A conditional use permit for an Adult Entertainment Activity shall only be granted upon a determination that all of the following conditions are present notwithstanding any conflicting requirements contained elsewhere in the zoning regulations:

1. The requested use at the proposed location will not adversely affect the use of churches, temples or synagogues; public, parochial or private elementary, junior high or high schools; public parks and recreation centers; public or parochial playgrounds; residences; child care facilities; elderly Residential Care facilities; hospitals; medical

clinics; colleges; or libraries, all within a five hundred (500) foot radius by engendering sounds, activities, visual depictions or advertisements that create an exterior atmosphere which unreasonably interferes with the operations of such surrounding uses.

2. The requested use at the proposed location is sufficiently buffered in relation to residentially zoned areas within the immediate vicinity such that any obtrusive or distracting environmental factors which may emanate from the use do not adversely affect said areas.

3. The exterior appearance of the structure will not be conspicuously of a lesser quality (i.e., with respect to such elements as building facade, lighting, and signage materials) than the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood or cause a substantial diminution or impairment of property values within the neighborhood.

4. The proposed use will not be inconsistent with the adopted general plan for the area.

5. The proposed site is adequate in size and shape to accommodate the parking and loading facilities, landscaping and other development features prescribed in the Planning Code or other City regulations or as is otherwise required in order to integrate said use with the uses in the surrounding area.

6. The proposed site is adequately served:

   a. By highways or streets of sufficient width and capacity to carry the kind and quantity of traffic and to accommodate the parking demand such use would generate; and

   b. By other public or private service facilities such as fire protection or trash collection services as are required.

C. Location.

1. No Adult Entertainment Activity shall be located within, nor closer than one thousand (1,000) feet to, the boundary of any Residential Zone.

2. No Adult Entertainment Activity shall be closer than three hundred (300) feet to any other Adult Entertainment Activity except that this restriction shall not apply to any Adult Entertainment Activity in an establishment devoted exclusively and on a full-time basis to such activity, which establishment was in existence on December 21, 1976 and operating under a valid City regulatory permit, where such a permit is required.

D. Discontinuance of Nonconforming Activities. See Section 17.114.090.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 7017)

17.102.170 Massage activities.

Massage activities as defined in the Oakland Municipal Code shall be subject to the regulations contained in the Oakland Municipal Code Chapter 5.36 as may be amended by the Oakland City Council.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12675 § 3 (part), 2005; prior planning code § 7018)

17.102.180 Restriction on vertical location of activities in buildings containing both Residential and Nonresidential Activities—Commercial Zones.

In all Commercial Zones, no Commercial or Industrial Activity shall be conducted within any building above any story thereof occupied wholly or partly by Residential Activities, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. However, this requirement shall not apply to Nonresidential Activities within HBX, CIX, or D-CE Work/Live Facilities.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12772 § 1 (part), 2006; prior planning code § 7019)

17.102.190 Joint Living and Work Quarters.

A. General Provisions. Joint living and work quarters are permitted in all zones where Residential Activities are permitted or conditionally permitted. Except as may otherwise be indicated by the applicable individual zone regulations, joint living and work quarters may also be permitted in zones where Residential Activities are not otherwise allowed upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. Definition. Joint living and work quarters means residential occupancy by not more than four (4) persons, maintaining a common household of one or more rooms or floors in a building originally designed for industrial or commercial occupancy which includes: (1) cooking space and sanitary facilities which satisfy the provisions of other applicable codes; and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein.

C. Use Permit Criteria. A conditional use permit for joint living and work quarters may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure and to both of the following use permit criteria:

   1. That the workers and others living there will not interfere with, nor impair, the purposes of the particular zone; and

   2. That the workers and others living there will not be subject to unreasonable noise, odors, vibration, or other potentially harmful environmental conditions.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12289 § 4 (part), 2000; prior planning code § 7020)

17.102.195 Residentially-Oriented Joint Living and Working Quarters.

A. Area of Applicability. The provisions of Section 17.102.195 apply to the area bounded by Highway 980/Brush Street, the Estuary shoreline, the Lake Merritt/Estuary channel, the western shore of Lake Merritt, and 27th Street.

B. Definition. Residentially-Oriented Joint Living and Working Quarters means residential occupancy by one or more persons maintaining a common household of one or more rooms in a building originally designed for non-residential occupancy which includes cooking space and sanitary facilities which satisfy the provisions of other applicable municipal codes. A Residentially-Oriented Joint Living and Working Quarter consists of a designated residential area and a designated work area. However, the definitions applied

by City Council Resolution Number 68518 C.M.S. that apply to "Joint Live/Work Space" including criteria that define space requirements are not applicable to Residentially-Oriented Joint Living and Working Quarters.

C. Conditions for Conversion.

1. In the area prescribed in Subsection A., an existing building or portion of a building that was originally designed for non-residential occupancy can be converted to Residentially-Oriented Joint Living and Working Quarters as long as each of the following standards is met:

   a. The total number of Residentially-Oriented Joint Living and Working Quarter units on the subject property after the conversion will not exceed the maximum number of residential units permitted by the underlying zone.

   b. All existing on-site parking spaces are retained for use by the residents, unless existing on-site parking exceeds required parking for all activities on the lot, in which case the number of parking spaces shall not be reduced below the number of spaces prescribed in Chapter 17.116 for all activities on the lot.

   c. All open space associated with the building is retained for use by the residents, unless existing open space exceeds the requirement for of the applicable zone or zones.

   d. All existing ground-floor commercial space is retained for commercial activities.

2. New floor area may be created that is entirely within the existing building envelope; however, in no case shall the height, footprint, wall area, or other aspect of the exterior of the building proposed for conversion be expanded to accommodate Residentially-Oriented Joint Living and Working Quarters, except for dormers not exceeding the existing roof height and occupying no more than ten percent (10%) of the roof area, and incremental appurtenances such as elevator shafts, skylights, rooftop gardens, or other facilities listed in Section 17.108.130.

3. If a project is located within the S-7 Zone and involves exterior alterations, the design review requirements of that zone shall apply (see Sections 17.84.030 and 17.84.040).

4. In any zone, projects involving exterior alterations shall be subject to the design review procedure in Chapter 17.136.

D. Conditional Use Permit Required in Certain Instances. In the area prescribed in Subsection A., a project that involves the conversion of an existing building or portion of a building that was originally designed for non-residential occupancy to Residentially-Oriented Joint Living and Working Quarters and does not meet one or more of the requirements of Subsection C.1. above may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. A conditional use permit may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in conditional use permit procedure in Chapter 17.134 and to any and all applicable additional use permit criteria set forth in the particular individual zone regulations.

E. Non-Applicability of Certain Requirements Pertaining to Dwelling Units. In the area prescribed in Subsection A., the conversion to Residentially-Oriented Joint Living and Working Quarters of a building or portion of a building that was originally designed for non-residential occupancy is not subject to the requirements for off-street parking in Section 17.116.020 (New Parking to Be Provided for New Living Units in Existing Facilities) and is not subject to the open space requirements for new residential dwelling units contained in

the applicable zoning district or districts, but is subject to the requirements of Subsection C.1. above for retention of existing parking and open space.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12456 § 3 (part), 2003)

17.102.200 Pedestrian bridges constructed over City streets.

In all zones, pedestrian bridges are permitted over City streets only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; prior planning code § 7021)

17.102.210—17.102.220 Reserved.

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Sections 17.102.210, 17.102.212, and 17.102.220 in their entirety, which pertained to special regulations applying to convenience markets, fast-food restaurants, certain establishments selling alcoholic beverages, providing mechanical or, and electronic games, special regulations applying to residential care, service-enriched permanent housing, transitional housing, and emergency shelter residential activities, and special regulations applying to mining and quarrying extractive activities, and derived from prior planning code § 7023; Ord. No. 11831, §§ 3, 4, adopted 1995; Ord. No. 11958, § 9, adopted 1996; Ord. No. 12138, § 4, adopted 1999; Ord. No. 12224, § 5, adopted 2000; Ord. No. 12225, § 2, adopted 2000; Ord. No. 12241, § 3, adopted 2000; Ord. No. 12496, § 2, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010; Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011; Ord. No. 13090, § 4(Exh. A), adopted October 4, 2011, and Ord. No. 13112, § 4(Exh. A), adopted April 20, 2012.

17.102.230 Demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity—Nonresidential Zones.

A. Conditional Use Permit Requirement. The demolition of a facility containing, or intended to contain, rooming units, or the conversion of a living unit from its present or last previous use by a Permanent Residential Activity, a Semi-Transient Residential Activity, or a Transient Habitation Commercial Activity to its use by a Nonresidential Activity other than Transient Habitation Commercial is only permitted in a Nonresidential Zone upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. The only exceptions to this requirement are conversions in the HBX Zones, and units in a One-Family or Two-Family Residential Facility. Such permit may be granted only upon determination that the proposed demolition or conversion conforms to the general use permit criteria set forth in the conditional use permit procedure and to at least one of the following additional use permit criteria:

1. That the facility proposed for demolition or the living unit proposed for conversion is unoccupied and is, or is situated in, a residential building that has been found, determined, and declared to be substandard or unsafe pursuant to Subsection 15.08.350.B of the Oakland Municipal Code; or

2. That a replacement rental unit, comparable in affordability and type to each unit proposed for demolition or conversion, will be added to the City's housing supply prior to the proposed demolition or conversion taking place; or

3. That the benefits to the City resulting from the proposed demolition or conversion will outweigh the loss of a unit from the City's housing supply; or

4. That the conversion will be an integral part of a rehabilitation project involving both Residential and Nonresidential Activities, and that the rehabilitation project would not be economically feasible unless some Nonresidential Activity were permitted within it.

B. Tenant Assistance. Upon the granting of a conditional use permit for the demolition of a facility containing rooming units or for the conversion of a living unit to a Nonresidential Activity, the actual demolition or conversion cannot take place until the following have occurred:

1. If a dwelling unit is to be converted, the tenant has been given a one hundred twenty (120) day written notice of the conversion. If a rooming unit is to be demolished or converted, the tenant, if a permanent tenant, has been given a seventy-five (75) day written notice of the demolition or conversion. All such written notices shall comply with the legal requirements for service by mail.

2. If a dwelling unit is to be converted, the tenant has been provided with a relocation allowance equal to one (1) month's rent or five hundred dollars ($500.00), whichever is greater. If a rooming unit is to be demolished or converted, the owner of the building containing the unit to be demolished or converted has referred the tenant (if a permanent tenant) to a comparable, available unit; if a comparable unit is not available, the permanent tenant has been provided with a relocation allowance equal to one (1) month's rent or five hundred dollars ($500.00), whichever is greater.

3. The Director of City Planning has been provided with proof that the above actions have been taken. (As used in this Section, a permanent tenant of a rooming unit is defined as a tenant maintaining occupancy for six (6) months or more at a hotel or motel where the innkeeper does not retain a right of access and control of the unit and where the hotel or motel does not provide or offer all of the following services to all of the residents: safe deposit boxes for personal property; central telephone service; central dining; maid, mail, room, and recreational service; and occupancy for periods of less than seven (7) days.)

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12772 § 1 (part), 2006; amended during 1997 codification; prior planning code § 7026)

17.102.240 Microwave and satellite dishes over three (3) feet in diameter located in or near Residential Zones.

The following regulations shall apply to microwave and satellite dishes which are over three (3) feet in diameter, which are located in any Residential Zone or within one hundred fifty (150) feet from the nearest boundary of any Residential Zone, as measured perpendicularly from said boundary at any point:

A. Height. No such facility which is on a building shall extend more than seven (7) feet above the building's actual roof line or parapet wall except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter

17.134. No such facility which is freestanding shall extend more than seven (7) feet above finished grade except upon the granting of a conditional use permit.

B. Distance from Lot Line in Certain Cases. No such facility shall be located within ten (10) feet from any abutting residentially zoned lot, or from any street, alley, or path or private way described in Section 17.106.020 directly across which there is a lot in any Residential Zone, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure.

C. Noise and Glare. All such facilities located within one hundred fifty (150) feet of any residentially zoned lot shall be placed, screened, or designed in such a way as to avoid casting objectionable glare into the windows of any residential facility or generating noise levels that exceed City performance standards.

D. Use Permit Criteria. A conditional use permit under this Section may 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 set forth below:

1. That in all cases, the proposed facility will not be unduly large or obtrusive for its surroundings;

2. That if the facility is to be located on a building, its supporting structure will be so screened, painted, formed of attractive materials, or otherwise designed that the facility will harmonize with the building's overall color and design;

3. That if the facility is to be freestanding, it will be so placed, screened, or designed that it will be visually compatible with the nearby residentially zoned uses.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A (part), 2008; prior planning code § 7028)

17.102.250—17.102.265 Reserved.

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Sections 17.102.250, 17.102.260, and 17.102.265 in their entirety, which pertained to maximum density and floor-area ratio during construction, occupancy of a dwelling unit, and occupancy of a one-family dwelling residential facility by a residential care residential activity, respectively, and derived from the prior planning code, §§ 7030, 7031; Ord. No. 12138, § 4, adopted 1999, and Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011.

17.102.270 An additional kitchen for a single dwelling unit.

An additional kitchen for a single dwelling unit in any Residential Facility may be permitted, without thereby creating an additional dwelling unit, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, and upon determination that all of the following conditions set forth below exist:

A. That the additional kitchen will be located within the same residential structure as the existing kitchen and solely constitute an additional service facility for the resident household, family or its temporary guests,

B. That the additional kitchen will not serve as a basis for permanent habitation of an extra household or family on the premises, or the creation of an additional dwelling unit on the premises.

C. That the additional kitchen is necessary to render habitable a living area occupied by one or more persons related by blood, marriage, or adoption to the resident family or collective household occupying the main portion of the dwelling unit.

However, a conditional use permit under this Subsection shall not be granted in the RH Zones or the RD-1 Zone if the lot contains two (2) or more dwelling units.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12272 § 4 (part), 2000; prior planning code § 7032)

17.102.280, 17.102.290 Reserved.

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Sections 17.102.280 and 17.102.290, which pertained to rules for determining the number of habitable rooms in residential facilities, and special regulations for drive-through nonresidential facilities, respectively, and derived from the prior planning code, §§ 7033, 7034; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12899, § 4(Exh. A), adopted 2008, and Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011.

17.102.300 Dwelling units with five (5) or more bedrooms.

A. Use Permit Required. No existing Residential Facility shall be altered, through additions, division of existing rooms, or other means, so as to create a total of five (5) or more bedrooms in any dwelling unit except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. Owner Occupants Exempt. The provisions of this Section shall not apply to the alteration of any existing dwelling unit which is occupied by the legal owner of the property on the filing date of the application for the building permit to alter the dwelling unit, and which has been continuously occupied by the same legal owner for a period of at least one (1) year prior to that date. The burden of proof of owner occupancy shall be on the applicant and shall be verified by at least two (2) forms of proof of continual owner occupancy covering the required time period, one of which shall be a valid homeowner's exemption issued by the Alameda County Assessor or other equivalent proof of owner occupancy.

C. Use Permit Criteria. A conditional use permit under this Section may 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 all of the following additional use permit criteria:

1. That off-street parking for residents of the entire facility, including any existing facility and any proposed alteration or addition, is provided as specified in the zone or zones in which the facility is located, as set forth in Section 17.116.060.

2. That a minimum of one (1) off-street visitor parking space is provided for the entire facility;

3. That the parking spaces provided in accordance with criteria 1 and 2, and all associated driveways, maneuvering aisles, and other related features, comply with the standards for required parking and loading facilities applicable in the base zone in which the facility is located, as set forth in Sections 17.116.170 through 17.116.300.
4. That no required parking spaces are located other than on approved driveways between the front lot line and the front wall of the facility or its projection across the lot.
5. That the applicable requirements of the buffering regulations in Chapter 17.110 are met.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12872 § 4 (part), 2008; prior planning code § 7035)

17.102.310—17.102.335 Reserved.

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Sections 17.102.310, 17.102.320, 17.102.330, and 17.102.335 in their entirety, which pertained to special regulations for certain projects with development agreements, conditional use permit for waiver of certain requirements in mini-lot developments, conditional use permit for waiver of certain requirements with parcel division between existing buildings, and standards for sidewalks cafes, respectively, and derived from the prior planning code, §§ 7037—7039; Ord. No. 12224, § 6, adopted 2000; Ord. No. 12274, § 4, adopted 2000; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008, and Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011.

17.102.340 Electroplating Activities in the Industrial Zones.

A. Distance Standards. No Electroplating Activity shall be located nor expanded within one thousand (1,000) feet from the boundary of any other zone except the CIX-2, IG, M-20, M-30, or M-40 Zones, nor from any area designated "Resource Conservation Area" or "Park and Urban Open Space" in the Oakland General Plan.

B. Use Permit Criteria for Electroplating Activities. A conditional use permit for an electroplating activity may 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, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

1. That the proposal will not adversely affect any residences; child care centers; shopping areas; churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; hospitals, convalescent homes, rest homes, or nursing homes; or public or parochial playgrounds; all located within one thousand (1,000) feet of the activity; and
2. That the proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area;
3. That a Hazardous Materials Business Plan and California Accidental Release Plan has been reviewed and approved by the City prior to approval of the conditional use permit;

4. That the facility has been designed to minimize impacts to surrounding properties, and that the site design has been approved by the City of Oakland Fire Services Agency, Office of Emergency Services prior to approval of the conditional use permit.

C. Expansion of Existing Facilities. No existing electroplating activity shall be expanded without the approval of a conditional use permit, pursuant to Subsection B. above and any relevant provisions of the provided further that no such expansion shall be permitted in any case if the distance standards of Subsection A. above are not met. For purposes of this Section, "expansion" shall mean any alteration or extension as stipulated in the nonconforming use regulations in Chapter 17.114, any increase in the volume of hazardous chemical used or stored on the site as indicated in the Hazardous Materials Business Plan filed with the City of Oakland Fire Services Agency, Office of Emergency Services; any increase in the floor area or site area of the facility; or any increase in the volume of goods produced by the electroplating activity, as determined by the Zoning Administrator from any relevant records.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12147 § 3 (part), 1999)

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, changed the title of Section 17.102.340 from "Special regulations applying to electroplating activities in the M-20, M-30, and M-40 zones" to "Electroplating activities in the industrial zones." The historical notation has been preserved for reference purposes.

17.102.350 Tobacco-oriented activities.

A. Conditional Use Permit Requirement for Tobacco-Oriented Activities. Such uses are permitted only upon the granting of a conditional use permit pursuant to Chapter 17.134 and to the following additional use permit criteria:

1. No tobacco-oriented activity shall be located within, nor closer than one thousand (1,000) feet to the boundary of a Residential Zone, school, public library, park or playground, recreation center or licensed daycare facility.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12205 § 4 (part), 2000)

17.102.360—17.102.390 Reserved.

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, repealed the former Sections 17.102.360, 17.102.370, 17.102.380, and 17.102.390 in their entirety, which pertained to secondary units, conditional use permit for hotels and motels, special regulations applying to truck-related activities in the West Oakland Community Development District, and regulations applying to special health care civic activities, respectively, and derived from Ord. No. 12199, § 7, adopted 2000; Ord. No. 12266, § 5, adopted 2000; Ord. No. 12289, § 4, adopted 2000; Ord. No. 12450, § 18, adopted October 22, 2002; Ord. No. 12501, § 73, adopted 2003; Ord. No. 12555, § 5, adopted 2003; Ord. No. 12776, § 3, Exh. A (part),

adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011.

17.102.400 Exterior security bars and related devices.

Exterior security bars and grills are not permitted on windows, doors, or porch enclosures that are located on a street-facing elevation of primary Residential Facilities unless the Director of City Planning determines that the proposed bars or grills are consistent with the architectural style of the building. Removal of such bars or grills shall be a condition of the granting of all conditional use permits, variances, design reviews and other special zoning approvals involving changes to the elevation on which the bars or grills are located unless the bars or grills have been shown to be architecturally consistent with the architectural style of the building.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, amended Section 17.102.400 in its entirety to read as herein set out. Formerly, Section 17.102.400 pertained to special design requirements for lots that contain residential facilities and no nonresidential facilities, and derived from Ord. No. 12376, adopted 2001; Ord. No. 12406, adopted 2002; Ord. No. 12533, § 3, adopted 2003; Ord. No. 12776, § 3(Exh. A), adopted 2006; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010; Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, and Ord. No. 13112, § 4(Exh. A), adopted April 30, 2012.

17.102.420—17.102.430 Reserved.

Editor's note—

Ord. No. 13172, § 4(Exh. A), adopted July 2, 2013, repealed the former Sections 17.102.420, 17.102.430, and 17.102.440 in their entirety, which pertained to special design requirements for lots located in a residential and commercial zones and the OS, S-1, S-2, S-3 and S-15 zones, regulations applying to check cashier and/or check cashing activity, and special regulations for primary collection centers in all zones, respectively, and derived from Ord. No. 12626, § 5, adopted 2004; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12923, § 2(Exh. A), adopted March 17, 2009; Ord. No. 12939, § 4(Exh. A), adopted June 16, 2009, and Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010.

17.102.440 Crematories.

A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Crematorium/Extensive Impact Civic Activity may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following use permit criteria:

1. Any proposed new or expanded crematorium must submit a Health Risk Assessment that shows that there is no significant health risk to the surrounding community.

17.102.450 Laundromats.

The following regulations shall apply in all zones to laundromats:

A. Conditional Use Permit Required. All new or expanded uses-laundromats shall be required to obtain a Conditional Use Permit as specified in Chapter 17.134.

B. Restriction on Over-Concentration of Laundromats. No new or expanded laundromat use shall be located closer than five hundred (500) feet from any existing laundromat as measured by the closest radial distance between buildings.

C. Standards. The following standards shall apply to all new or expanded Laundromat uses:

1. On-Site Attendant. An employee shall be on the premises during all business hours.

2. Security Cameras. Security cameras shall be operated on the premises during all business hours and recordings shall be maintained for a minimum of seven (7) days.

3. When located adjacent to or below a dwelling unit the following shall be minimized:

a. Noise shall not exceed the limits set forth in Chapter 17.120, Performance Standards.

b. Vibrations shall not exceed the limits set forth in Chapter 17.120, Performance Standards.

c. Venting shall be directed away from residential dwelling units.

4. Transparency.

a. A minimum of sixty percent (60%) of the building facade along a street or streets shall be glass (windows and/or doors).

b. Window Clarity. Ninety percent (90%) of area of windows shall remain clear to allow views into the commercial space.

5. Exterior Illumination. Outdoor lighting shall be attached to the exterior of the facility containing the laundromat establishment and operated after dusk so that the exterior of the premises are discernible.

6. Off-Site Impacts.

a. Litter and debris shall be cleared from the premises and the adjacent right-of-way and sidewalks of the property at least once daily or as needed to maintain a litter free environment.

b. Graffiti shall be removed from the exterior of the building within seventy-two (72) hours of application.

c. At least two (2) "No Loitering" signs shall be posted on the building facade and other visible locations around the site. Signs shall be of a permanent nature and have letters a minimum of two (2) inches in height. The owner, manager, and employees of this establishment shall make appropriate efforts to discourage loitering from the premises including calling the police to ask that they remove loiters who refuse to leave. Persons loitering in the vicinity of the exterior of the establishment with no apparent business for more than ten (10)

minutes shall be asked to leave. Techniques discussed in the manual entitled "Loitering: Business and Community Based Solutions" shall be used.

(Ord. No. 13042, § 4(Exh. A), 10-19-2010; Ord. No. 13172, § 3(Exh. A), 7-2-2013)

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Editor's note— Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, changed the title of Chapter 17.102 from "General regulations applicable to all or several zones" to "Regulations applicable to certain activities and facilities." (Back)

Chapter 17.103 SPECIAL REGULATIONS AND FINDINGS FOR CERTAIN USE CLASSIFICATIONS

Sections:

Article I - Residential Activities

Article II - Civic Activities

Article III - Commercial Activities

Article IV - Industrial Activities

Article V - Agricultural and Extractive Activities

Article VI - Residential Facilities

Article VIII - Nonresidential Facilities

Article IX - Sign Facilities

Article X - Telecommunications Facilities

Article I Residential Activities

17.103.010 Residential Care and Emergency Shelter Residential Activities.

17.103.015 Standards Applicable to Emergency Shelters Permitted “By-Right”.

17.103.010 Residential Care and Emergency Shelter Residential Activities.

A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Residential Care or Emergency Shelter Residential Activity may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

   1. That staffing of the facility is in compliance with any State Licensing Agency requirements;
   2. That if located in a Residential Zone, the operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by Residential Activities in the surrounding area;
   3. That if located in a Residential Zone, the on-street parking demand generated by the facility due to visitors is not substantially greater than that normally generated by the surrounding Residential Activities;
   4. That if located in a Residential Zone, arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the livability of the surrounding properties;

5. That the facility's program does not generate noise at levels that will adversely affect the livability of the surrounding properties.

B. Restriction on Overconcentration of Resident Care and Emergency Shelter Residential Activities. No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.103.015 Standards applicable to Emergency Shelters permitted "by-right".

A. Emergency shelters shall be permitted by-right within the following areas, identified street corridors, and portions of street corridors (see Zoning Code Bulletin on Emergency Shelters Permitted By-right for a map of the following locations):

1. That portion of Martin Luther King Jr. Way lying between the 51st Street and the City of Oakland City Limits (Segment 1 on map in Zoning Code Bulletin).
2. That portion of San Pablo Boulevard lying between 53rd Street and the City of Oakland City Limits (Segment 2 on map in Zoning Code Bulletin).
3. That portion of the area surrounding Webster Street bounded by 29th Street to the south, the I-580 overpass to the north and Elm Street to the west and Webster Street (parcels fronting Webster Street) to the east (Segment 3 on map in Zoning Code Bulletin).
4. That portion of San Pablo Boulevard lying between Grand Avenue and I-580 (Segment 4 on map in Zoning Code Bulletin).
5. That area surrounding Third Street bounded by Martin Luther King Jr. Way to the east, Fifth Street to the north, Embarcadero West to the south and Union Street to the west (Segment 5 on map in Zoning Code Bulletin).
6. That portion of E. 12th Street between 14th Avenue and 23rd Avenue (Segment 6 on map in Zoning Code Bulletin).
7. That portion of Macarthur Boulevard between Fruitvale Avenue and High Street (Segment 7 on map in Zoning Code Bulletin).
8. That area of Coliseum Way bounded by San Leandro Street to the north, I-880 to the south, 66th Avenue to the east and High Street to the west (Segment 8 on map in Zoning Code Bulletin).

B. Where permitted by-right, Emergency Shelters shall comply with the development standards of the underlying zone and be in accordance with the following additional criteria:

1. **Compliance with required licenses, permits, and approvals.** An Emergency Shelter shall obtain and maintain in good standing required licenses, permits, and approvals from city, county and state agencies or departments and demonstrate compliance with applicable Building and Fire Codes. An Emergency Shelter Residential Facility shall comply with all county and state health and safety requirements for food, medical and other supportive services provided on-site.
2. **Number of beds.** A maximum of number of one hundred (100) beds or persons are permitted to be served nightly by the facility.

3. **Off Street Parking**. See Sections 17.116.060(B) and 17.103.010(A) for parking-related requirements for emergency shelters.
4. **Size and location of exterior onsite waiting and client intake areas.** Exterior waiting areas must comply with the Small Project Design Review Checklist Criteria for Facilities with 3 or More Dwelling Units.
5. **Restriction on overconcentration of Emergency Shelter Residential Activities.** See Section 17.103.010(B) for overconcentration standards for Emergency Shelter Residential Activities.
6. **Length of stay**. No individual or family shall reside in an emergency shelter for more than 180 consecutive days.
7. **External Lighting and Security.** Satisfactory completion of the City of Oakland's "Crime Prevention Through Environmental Design (CPTED) Checklist for Residential Projects" is required for all emergency shelters permitted by-right.
8. **Additional Requirements.** For City of Oakland funded shelters refer to the current "Standard Contract – Service Agreement" that governs the disposition of funds from the City of Oakland, through the Department of Human Services, to a shelter operator.

Article II Civic Activities

17.103.020 Special Health Care Civic Activities.

17.103.020 Special Health Care Civic Activities.

A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Special Health Care Civic Activities may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following use permit criteria:

1. That each Special Health Care Civic activity be no located no less than two thousand five hundred (2,500) feet from the nearest Special Health Care Civic activity within the City of Oakland.
2. That each Special Health Care Civic activity be a minimum of five hundred (500) feet from the following activities:
   a. Schools K—12;
   b. Licensed Emergency Shelters.
3. That each Special Health Care Civic activity meets the following Performance Standards and that these performance standards be included as standard conditions of approval. These performance standards may be amended or expanded by the Planning Commission as they are applied to individual locations and projects:
   a. A lighting plan shall be reviewed and approved by the Zoning Administrator. Exterior lighting shall be provided on all frontages. Such lighting shall be designed to illuminate persons standing outside such that they can be identified fifty (50) feet away. Exterior lighting shall be designed so as not to cast glare offsite.

b. A plan for any exterior changes and signage shall be reviewed and approved by the Zoning Administrator.

c. Storefronts shall have glass or transparent glazing in the windows. No more than thirty percent (30%) of any window area shall be covered by signs, banners, or opaque coverings of any kind.

d. Final floor plans shall be reviewed and approved by the Zoning Administrator prior to issuance of building permits.

e. Fenced yards shall be fenced with fencing a minimum of six (6) feet tall. Such fencing shall be of an open design.

f. One (1) non-flammable trash container and ashtray shall be located in front of the facility for smokers.

g. Clients shall not be allowed to loiter outside the building on the sidewalk or street. Clients waiting to be served shall be accommodated inside the building.

h. Days and hours of operation shall be Monday through Friday, 8:00 a.m. to 6:00 p.m. Clients shall be discouraged from loitering prior to or after hours. At least one (1) no loitering sign with letters at least two (2) inches tall shall be installed and maintained where it will be visible to pedestrians in front of the property. These performance standards and any conditions of approval, days and hours of operation, phone contact, and after hours phone contacts shall be posted where visible to the public twenty-four (24) hours a day.

i. Graffiti shall be removed within seventy-two (72) hours of application. No exterior pay telephones shall be installed.

j. Litter shall be removed at least two (2) times daily or as needed from in front of and for twenty (20) feet beyond the building along adjacent street(s). All "street furniture" such as crates or mattresses shall be removed daily or as needed.

k. Prior to issuance of building permits or commencement of use, applicant shall submit a needle retrieval plan for all Special Health Care Civic Activities that provide needle exchange services on site. The plan shall, at a minimum, detail the protocol for the exchange of clean needles for dirty needles and for retrieving used needles within three hundred (300) feet of the site on a regular basis.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Article III Commercial Activities

17.103.030 Fast-Food Restaurant, Convenience Market, and Alcoholic Beverage Sales Commercial Activities.

17.103.040 Check Cashier and Check Cashing Commercial Activities.

17.103.050 Transient Habitation Commercial Activities.

17.103.030 Fast-Food Restaurant, Convenience Market, and Alcoholic Beverage Sales Commercial Activities.

A. Use Permit Criteria for Fast-Food Restaurants, Convenience Markets, and Establishments Selling Alcoholic Beverages. A conditional use permit for any conditionally permitted Fast-Food Restaurant, Convenience Market, or Alcoholic Beverage Sales Commercial Activity may 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, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;
2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;
3. That the proposal will not interfere with the movement of people along an important pedestrian street;
4. That the proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area;
5. That the design will avoid unduly large or obtrusive Signs, bleak unlandscaped parking areas, and an overall garish impression;
6. That adequate litter receptacles will be provided where appropriate;
7. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of 10:00 p.m. and 7:00 a.m. The same criteria shall apply to all conditional use permits required by Subsection B. of this Section for sale of alcoholic beverages at full-service restaurants;
8. That proposals for new Fast-Food Restaurants must substantially comply with the provisions of the Oakland City Planning Commission "Fast-Food Restaurant—Guidelines for Development and Evaluation" (OCPD 100-18).

B. Special Restrictions on Establishments Selling Alcoholic Beverages.

1. No Alcoholic Beverage Sales Commercial Activity or sale of alcoholic beverages shall be located closer than one thousand (1,000) feet to any other Alcoholic Beverage Sales Commercial Activity measured between closest building walls, except:

   a. On-sale retail licenses located in the Central District (defined for the purposes of this Chapter only as within the boundaries of 1-980 and Brush street to the west; both sides of 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south); or

   b. Off-sale retail licenses located in the Jack London district (defined for the purposes of this Chapter only as within the boundaries of Martin Luther King Jr. Way to the west, I-880 to the north; the Lake Merritt Channel to the east; and the Estuary to the south); or

c. If the activity is in conjunction with a Full-Service Restaurant Commercial Activity; or

d. Establishments with twenty-five (25) or more full time equivalent (FTE) employees or a total floor area of twelve thousand (12,000) square feet or more.

e. If the activity is in conjunction with the on-sale and/or off-sale of alcoholic beverages at an alcoholic beverage manufacturer:

i. For the purposes of this Chapter only, an “alcoholic beverage manufacturer” means a Custom or Light Manufacturing Industrial Activity producing alcoholic beverages as a principal activity, with a State of California Department of Alcoholic Beverage Control (ABC) license type that includes, but is not limited to, a Type 02 (Winegrower) or Type 23 (Small Beer Manufacturer). The ABC license type shall not consist solely of a bar or liquor store license type, such as a Type 48, 20, or 21. The on-sale and/or off-sale of alcoholic beverages at such an alcoholic beverage manufacturer are excluded from the definition of Alcoholic Beverage Sales Commercial Activities, as specified in Section 17.10.300.

ii. The sale of alcoholic beverages at an alcoholic beverage manufacturer is only permitted upon the granting of a Minor Conditional Use Permit (CUP), regardless of whether such Custom or Light Manufacturing Industrial Activity is otherwise allowed by right in the underlying zone (see Chapter 17.134 for the CUP procedure).

iii. Also, no additional CUP findings are required, regardless of whether such sale of alcoholic beverages at an alcoholic beverage manufacturer meets normally required separation requirements, and/or is located in an over-concentrated area.

2. Sale of alcoholic beverages in conjunction with a Full Service Restaurant Commercial Activity and located within any of the following restricted street areas applied to a depth of two hundred (200) feet on each side of the identified streets and portions of streets, as measured perpendicularly from the right-of-way line thereof: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Interstate 980 and 580; that portion of Edes Avenue lying between Clara Street and Bergedo Drive, shall require a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

3. In addition to the criteria prescribed elsewhere in the zoning regulations, a land use permit for an Alcoholic Beverage Sales Commercial Activity located within an Alcoholic Beverage Sales license overconcentrated area shall only be granted, and a finding of Public Convenience or Necessity made, if the proposal conforms to all of the following three (3) criteria:

a. That a community need for the project is clearly demonstrated. To demonstrate community need, the applicant shall document in writing, specifically how the project would serve an unmet or underserved need or population within the overall Oakland community or the community in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including, but not limited to alcohol; and

b. That the overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh

anticipated negative impacts, and that will not result in a significant increase in calls for police service; and

c. That alcohol sales are customarily associated with, and are appropriate, incidental, and subordinate to, a principal activity on the lot.

4. In addition to the above criteria, projects outside of the Central District, the Hegenberger Road Corridor, and the D-CO-2 and D-CO-3 Zones shall meet all of the following criteria to make a finding of Public Convenience or Necessity, with the exception of those projects that will result in twenty-five (25) or more full time equivalent (FTE) employees and will result in a total floor area of twelve thousand (12,000) square feet or more:

a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (not including Full Service Restaurant Commercial Activities), school, licensed day care center, public park or playground, churches, senior citizen facilities, and licensed alcohol or drug treatment facilities; and

b. Police department calls for service within the "beat" where the project is located do not exceed by twenty percent (20%), the average of calls for police service in police beats Citywide during the preceding one (1) calendar year.

5. See Chapter 17.156 for Deemed Approved Alcoholic Beverage Sale regulations.

C. Special Restrictions Applying to Fast-Food Restaurants.

1. No Fast-Food Restaurant Commercial Activity shall be located within a one thousand (1,000) foot radius of an existing or approved Fast-Food Restaurant, as measured from the center of the front property line of the proposed site, except in the Central District (defined for the purposes of this Chapter only as within the boundaries of 1-980 and Brush Street to the west; both sides of 27th Street to the North; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south), within the main building of Shopping Center Facilities, and in the D-CO-2 and D-CO-3 Zones.

2. Fast-Food Restaurants with Drive-Through Facilities shall not be located within three hundred (300) feet of a lot line adjacent to the Hegenberger Road or Oakport Street right-of-way, or five hundred (500) feet of a public or private elementary school, park, or playground.

3. Access. Ingress and egress to Fast-Food Facilities shall be limited to commercial arterial streets rather than residential streets. No direct access shall be provided to adjacent residential streets which are less than thirty-two (32) feet in pavement width. Exceptions to either of the requirements may be obtained where the City Traffic Engineer determines that compliance would deteriorate local circulation or jeopardize the public safety. Any such determination shall be stated in writing and shall be supported with findings. Driveway locations and widths and entrances and exits to Fast-Food Facilities shall be subject to the approval of the City Traffic Engineer.

4. Trash and Litter. Disposable containers, wrappers and napkins utilized by Fast-Food Restaurants shall be imprinted with the restaurant name or logo.

5. Vacated/Abandoned Fast-Food Facilities. The project sponsor of a proposed Fast-Food Facility shall be required to obtain a performance bond, or other security acceptable to the City Attorney, to cover the cost of securing and maintaining the facility and site if it is abandoned or vacated within a prescribed high-risk period. As used in this code, the words "abandoned" or "vacated" shall mean a facility that has not been operational for a period of thirty (30) consecutive days, except where

nonoperation is the result of maintenance or renovation activity pursuant to valid City permits. The defined period of coverage is four (4) years following the obtaining of an occupancy permit. The bond may be renewed annually, and proof of renewal shall be forwarded to the Director of City Planning. The bond amount shall be determined by the City's Risk Manager and shall be adequate to defray expenses associated with the requirements outlined below. Monitoring and enforcement of the requirements set forth in this Section shall be the responsibility of the Building Official, pursuant to Chapter 8.24 of the Oakland Municipal Code (O.M.C.) and those sections of the Oakland Building Code which are applicable. If a Fast-Food Facility has been vacated or abandoned for more than thirty (30) consecutive days, the project sponsor shall be required to comply with the following requirements, pursuant to the relevant cited City, County and State codes:

a. Enclose the property with a security fence and secure the facility;

b. Post signs indicating that vehicular parking and storage are prohibited on the site (10.16.070 O.T.C. and 22658 C.V.C.), and that violators will be cited, and vehicles towed at the owner's expense, and that it is unlawful to litter or dump waste on the site (Sections 374b.5 C.P.C. and 374b C.P.C.). All signs shall conform to the limitations on signs for the specific zone and shall be weatherproof and of appropriate size and standard design for the particular function;

c. Install and maintain security lighting as appropriate and required by the Oakland Police Department;

d. Keep the site free of handbills, posters and graffiti and clear of litter and debris pursuant to Section 8.38.160 of the O.M.C.;

e. Maintain existing landscaping and keep the site free of overgrown vegetation.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.103.040 Check Cashier and Check Cashing Commercial Activities.

A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Check Cashier and Check Cashing Commercial Activity may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations. and to all of the following performance standards:

1. That each Check Cashier and Check Cashing Commercial Activity be located not less than one thousand (1,000) feet from the nearest Check Cashier and Check Cashing Commercial Activity within the City of Oakland.

2. That each Check Cashier and Check Cashing Commercial Activity be a minimum of five hundred (500) feet from the following Activities, which on the date of an application for Check Cashier and Check Cashing Commercial Activity had a vested right under California law to operate:

a. Community Education Civic Activities;

b. State or federally chartered bank, savings association, credit union, or industrial loan company;

c. Community Assembly Civic Activities;

d. Recreational Assembly Civic Activities; or

e. Alcoholic Beverage Sales Commercial Activities, excluding Full Service Restaurants and Alcoholic Beverage Sales Commercial Activities with twenty-five (25) or more full time equivalent (FTE) employees and a total floor area of twenty thousand (20,000) square feet or more. (Note that this precludes combining Check Cashier and Check Cashing Commercial Activity with Alcoholic Beverage Sales Commercial Activities because Alcoholic Beverage Sales Commercial Activities are always considered a primary activity and therefore subject to this distance standard).

3. That each Check Cashier and Check Cashing Commercial Activity meets the following performance standards and that these performance standards are included as standard conditions of approval. These performance standards may be amended or expanded by Staff and/or the Planning Commission as they are applied to individual locations and projects:

a. A lighting plan shall be reviewed and approved by the Zoning Administrator prior to issuing building permits and installed prior to establishing the activity. Exterior lighting shall be provided on all frontages. Such lighting shall be designed to illuminate persons standing outside such that they can be identified fifty (50) feet away. Exterior lighting shall be designed so as not to cast glare offsite.

b. Storefronts shall have glass or transparent glazing in the windows and doors. No more than ten percent (10%) of any window or door area shall be covered by signs, banners, or opaque coverings of any kind so that law enforcement personnel will have clear view of the entire public area in the premises from the public sidewalk.

c. Days and hours of operation shall be, no earlier than 7:00 a.m. nor later than 7:00 p.m. Monday through Saturday. Patrons shall be discouraged from loitering prior to, during and/or after hours. At least one (1) no loitering sign with letters at least two (2) inches tall shall be installed and maintained where it will be most visible to pedestrians on each side of the building in which the activity is located including, but not limited to, street frontages and parking lots.

d. Graffiti shall be removed within seventy-two (72) hours of application.

e. No exterior pay telephones shall be permitted.

f. Litter shall be removed at least two (2) times daily or as needed from in front of and for twenty (20) feet beyond the building along adjacent street(s). All "street furniture" such as crates or mattresses shall be removed daily or as needed.

g. The applicant shall post at least one (1) certified uniformed security guard on duty at all times the business is open. The security guard shall patrol the interior and all exterior portions of the property under control of the owner or lessee including, but not limited to, parking lots and any open public spaces such as lobbies.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.103.050 Transient Habitation Commercial Activities.

A. A Conditional Use Permit for any Transient Habitation Commercial Activity may only be granted upon determination that the proposal conforms to the general use permit criteria (see Section 17.134.050) and to all of the following additional use permit criteria:

1. That the proposal is consistent with the goal of attracting first-class, luxury hotels in downtown, along the waterfront, near the airport, along the I-880 freeway, in a specific plan area, and/or in an area with a concentration of amenities for hotel patrons, including but not limited to restaurant, retail, recreation, open space and exercise facilities, and is well-served by public transit;
2. That the proposal considers the impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services;
3. That the proposed development will be of an architectural and visual quality and character which harmonizes and enhances the surrounding area, and that such design includes:
    a. Site planning that insures appropriate access and circulation, locates building entries which face the primary street, provides a consistent development pattern along the primary street, and insures a design that promotes safety for its users;
    b. Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;
    c. Signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape;
    d. The majority of the parking located either to the side or rear of the site, or where appropriate, within a structured parking facility that is consistent, compatible and integrated into the overall development;
    e. Appropriate design treatment for ventilation of room units as well as structured parking areas; and prominent entry features that may include attractive porte-cocheres;
    f. Building design that enhances the building's quality with strong architectural statements, high quality materials particularly at the pedestrian level, and appropriate attention to detail;
    g. Lighting standards for hotel buildings, grounds and parking lots that are not overly bright and direct the downward placement of light.
4. That the proposed development provides adequately buffered loading areas and to the extent possible, are located on secondary streets;
5. The proposed operator of the facility shall be identified as part of the project description at the time of application.

B. See Chapter 17.157 for Deemed Approved Hotel regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Article IV Industrial Activities

17.103.060 Recycling and Waste-Related Industrial Activities—Primary Recycling Collection Centers.

17.103.060 Recycling and Waste-Related Industrial Activities—Primary Recycling Collection Centers.

A. Applicability. This Section applies to Recycling and Waste-Related Industrial Activities — Primary Collection Centers that are located in any zone. Where there is any apparent conflict between these regulations and regulations contained elsewhere in this Title 17, and/or with conditions of approval, the more stringent shall govern.

B. Performance Standards. In addition to the performance standards set forth in Chapter 17.120, the performance standards specified in Subsection 17.73.035.B shall be uniformly applied, as applicable, and the relief from the performance standards in Subsection 17.73.035.C shall apply to all Primary Collection Centers.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Article V Agricultural and Extractive Activities

17.103.070 Mining and Quarrying Extractive Activities.

17.103.070 Mining and Quarrying Extractive Activities.

See Chapter 17.155 for special regulations regarding Mining and Quarrying Extractive Activities.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Article VI Residential Facilities

17.103.080 One-Family Dwelling with Secondary Unit Residential Facilities.

17.103.080 One-Family Dwelling with Secondary Unit Residential Facilities.

A. **Development Standards.** The following regulations shall apply to the construction, establishment, or alteration of Secondary Units wherever permitted or conditionally permitted, as specified in each individual zone:

1. **Other Uses on Property.** A Secondary Unit shall only be permitted on a lot that contains one (1) primary dwelling unit. A Secondary Unit may be approved and constructed at the same time or after the approval and construction of the primary dwelling unit.

2. **Sale of Unit.** A Secondary Unit shall not be sold separately from the primary dwelling unit on the same lot.

3. **Maximum Permitted Floor Area.** The floor area of a Secondary Unit shall not exceed seven hundred fifty (750) square feet or seventy-five percent (75%) of the floor area of the primary dwelling unit, whichever is less, except that Secondary Units of up to five

hundred (500) square feet in floor area are permitted regardless of the size of the primary dwelling unit.

4. **Required Parking.** Except as specified in Subsection a. below, the minimum parking requirements for a Secondary Unit shall be as prescribed in the applicable individual zone regulations and in Chapter 17.116. Tandem parking may be permitted according to the regulations in Section 17.116.240.

   a. Secondary Units that are located on sites within: (i) one-half (1/2) mile of a BART Station, BRT Station, or Major Transit Stop; (ii) one-half (1/2) mile of a designated rapid bus line not located on Telegraph Avenue; (iii) one-quarter (1/4) mile of a designated rapid bus line located on Telegraph Avenue; or (iv) one-half (1/2) mile of the transit hub at the intersection of Lakeshore Avenue and Lake Park Avenue shall have no additional parking requirement. For the purposes of this Chapter, a "Major Transit Stop" is defined consistent with California Public Resources Code Section 21064.3, as may be amended; and means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two (2) or more major bus routes with a frequency of service interval of fifteen (15) minutes or less during the morning and afternoon peak commute periods.

   b. For new or newly legalized Secondary Units established after the effective date of this Subsection and located within a Residential Parking Permit area, a Residential Parking Permit shall not be issued to the occupant(s) of the Secondary Unit except that the verified occupant(s) of the Secondary Unit may be issued no more than one (1) of the permits associated with the primary dwelling unit. This Subsection only applies to Secondary Units located on sites near transit as defined in Subsection a. above.

5. **Setbacks.** Except as specified in Subsection 6. below for the conversion of existing detached accessory structures, the minimum setback requirements shall be as prescribed in the applicable individual zone regulations; or as prescribed for a detached Secondary Unit located within a minimum Yard or Court in Subsection U. of Section 17.108.130 and the first paragraph of Section 17.108.130.

6. **Conversion of an Existing Detached Accessory Structure.** A detached accessory structure legally in existence prior to the effective date of this amended Code Section and located outside of the front yard setback, may be converted into a Secondary Unit, regardless of the normally required prohibition on residential living quarters within a detached accessory structure located in a minimum Yard or Court in Subsection K. of Section 17.108.130, or any existing nonconformity as to side setback, rear setback, or height, as long as:

   a. The existing structure is not modified or added to in any way that increases the level of nonconformity with all applicable zoning regulations, including but not limited to, all provisions in this Section;

   b. The floor area of the resulting Secondary Unit does not exceed the maximum allowed in this Section; and

   c. The minimum parking requirement can be met on site.

7. **Fire Flow and Water Pressure.** A Secondary Unit may be permitted only if the fire flow and water pressure in the adjoining street meets the minimum requirements as determined by the Fire Marshal.

8. **Emergency Access—Multiple Vehicular Outlets.** A Secondary Unit may be permitted only on a lot which has frontage on a through street, or a dead-end street that has a total length of less than three hundred (300) feet. For the purposes of this Subsection, the total length of a dead-end street shall be the distance from the intersection with the nearest through street to the farthest opposite end of the street right-of-way, or private access easement (as defined by Section 16.32.010 of the Oakland Municipal Code) if the private access easement is connected to said dead-end street.

9. **Emergency Access—Minimum Pavement Width.** A Secondary Unit may be permitted only if all streets connecting the lot to the nearest arterial street (as designated by the City of Oakland General Plan Land Use and Transportation Element) have a minimum pavement width of at least twenty-four (24) feet. The minimum pavement width limitation may be reduced to a minimum of twenty (20) feet, upon the granting of a conditional use permit, pursuant to the criteria in Subsection B. of this Section, and the conditional use permit procedure in Chapter 17.134.

10. **Public Sanitary Sewer.** A Secondary Unit may be permitted only if it is served by a public sanitary sewer.

11. **Architectural Compatibility.** The Secondary Unit shall be clearly subordinate to the primary dwelling unit in size and location. Also, the exterior materials of a Secondary Unit shall match or be visually compatible with that of the primary dwelling unit, including the siding material, roof shape and/or pitch, roofing material, trim material and design, and window types.

12. **Compliance with Building and Fire Codes.** All Secondary Units shall comply with all other code and permit requirements imposed by all other affected departments, including but not limited to, fire separation, sound separation, egress, utility access, and the requirement for a building permit.

13. **Review Procedure.** An application for a Secondary Unit of up to five hundred (500) square feet shall be granted ministerial approval as specified in Section 17.136.025 upon confirmation of compliance with all applicable zoning regulations, including but not limited to, all provisions in this Section. The five hundred (500) square-foot floor area threshold for a Secondary Unit may only be exceeded, up to a maximum size of seven hundred fifty (750) square feet or seventy-five percent (75%) of the floor area of the primary dwelling unit, whichever is less, upon the granting of Small project design review, pursuant to the Small project design review procedure in Section 17.136.030.

B. **Use Permit Criteria for Secondary Units Accessed Via Narrow Streets**. A conditional use permit for a Secondary Unit accessed from the nearest arterial street via a street with a minimum pavement width of between twenty (20) and twenty-four (24) feet may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the general use permit procedure in Chapter 17.134 and to all of the following additional use permit criteria:

1. That there is adequate emergency access to the lot as determined by the Fire Marshall;

2. That the portions of the street that have a pavement width of less than twenty-four (24) feet are not located on a dead-end street;

3. That if on-street parking is permitted on portions of the street that have a pavement width of less than twenty-four (24) feet, that there exist a level and hard surface shoulders with a combined additional width of at least eight (8) feet;
4. That if on-street parking is prohibited on portions of the street that have a pavement width of less than twenty-four (24) feet, that the restricted parking areas are clearly marked with official City installed no-parking signs and/or red curbs. pursuant to the provisions of the Oakland Traffic Code (Title 10 of the Oakland Municipal Code).

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Article VIII Nonresidential Facilities

17.103.090 Sidewalk Cafe Nonresidential Facilities.

17.103.100 Drive-Through Nonresidential Facilities.

17.103.090 Sidewalk Cafe Nonresidential Facilities.

A. Procedures for Construction of Sidewalk Cafe Facilities.

1. Notwithstanding any design review requirement of the particular zone, Sidewalk Cafes that have a maximum of five (5) tables and no more than fifteen (15) chairs and/or will not have any permanent structures in the public right-of-way, are allowed by right subject to the standards required in Subsection B. of this Section.
2. Sidewalk Cafes that have more than five (5) tables/fifteen (15) chairs and/or have a permanent structure in the public right-of-way are subject to Small project design review in Section 17.136.030.

B. Standards for Sidewalk Cafes.

1. Sidewalk Cafes shall not encroach upon any public right-of-way unless a minimum of five and one-half (5½) feet of unobstructed improved sidewalk remains available for pedestrian purposes. The minimum distance shall be measured from the portion of the Sidewalk Cafe encroachment which is nearest to any obstruction within the sidewalk area. For purposes of the minimum clear path, parking meters, traffic signs, trees and all similar obstacles shall constitute obstruction.
2. Operators/owners of Sidewalk Cafes shall obtain an encroachment permit from the City's Public Works Agency, and shall comply with all requirements imposed by other affected departments. The encroachment permit shall include language that a waste receptacle be placed outside, all garbage/litter associated with Sidewalk Cafes must be removed within twenty-four (24) hours, and a requirement to obtain liability insurance. The City shall be named as an additional insured and the amount of the insurance shall be determined by the City's Risk Manager.
3. The operators/owners of Sidewalk Cafes shall defend, indemnify, and hold harmless the City of Oakland its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the City Planning Department, Planning Commission, or City Council.

The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

4. The operator/owners of Sidewalk Cafes shall continually bus tables and provide a final cleanup at the end of the business day that will include litter pickup one hundred (100) feet in each direction from the site.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.103.100 Drive-Through Nonresidential Facilities.

A. Conditional Use Permit for any Drive-Through Nonresidential Facility may only be granted upon determination that the proposal conforms to the general use permit criteria (see Section 17.134.050) and to all of the following additional use permit criteria:

1. That the proposed facility will not impair a generally continuous wall of building facades;
2. That the proposed facility will not result in weakening the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of a shopping frontage;
3. That the proposed facility will not directly result in a significant reduction in the circulation level of service of adjacent streets.

B. A driveway serving as a vehicle stacking or queuing lane for a drive-through window in a Drive-Through Nonresidential Facility shall be separated from parking areas and shall not be the only entry or exit lane on the premises. Such facility shall be so situated that any vehicle overflow from it shall not spill onto public streets or the major circulation aisles of any parking lot. Such facility shall have durable, all-weather surface; shall have reasonable disposal of surface waters by grading and drainage; and shall be permanently maintained in good condition.

C. Each vehicle space comprising a stacking or queuing lane for a drive-through window drive-through window in a Drive-Through Nonresidential Facility shall be a minimum of ten (10) feet in width by twenty (20) feet in length. Such a stacking or queuing lane shall have a minimum capacity of eight (8) vehicles.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Article IX Sign Facilities

17.103.110 Sign Facilities.

17.103.110 Sign Facilities.

See Chapter 17.104 for special regulations regarding Sign Facilities.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Article X Telecommunications Facilities

17.103.120 Telecommunications Facilities.

17.103.120 Telecommunications Facilities.

See Chapter 17.128 for special regulations regarding Telecommunications Facilities.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Chapter 17.104 GENERAL LIMITATIONS ON SIGNS

Sections:

17.104.010 General limitations on Signs in Residential Zones, except the RU-4 and RU-5 Zones, and in Open Space (OS) Zones.

17.104.020 General limitations on Signs—RU-4 and RU-5 Zones, and all Commercial and Industrial Zones.

17.104.030 General limitations on Signs—S-1, S-2, S-3, D-CO-1, and S-15 Zones.

17.104.040 Limitations on Signs within one thousand (1,000) feet of rapid transit routes.

17.104.050 Amortization of Advertising Signs in Residential Zones.

17.104.060 General Limitations on Advertising Signs.

17.104.070 Master Sign Programs.

17.104.010 General limitations on Signs in Residential Zones, except the RU-4 and RU-5 Zones, and in Open Space (OS) Zones.

The following limitations shall apply to the specified Signs in all Residential and OS Zones, except the RU-4 and RU-5 Zones and except as otherwise provided herein, and are in additions to the limitations, if any prescribed for Signs in the applicable individual zone regulations and development control maps.

A. Maximum Height. No Sign shall exceed the maximum height, if any, applicable to facilities in general where it is located, except as otherwise provided in Sections 17.108.020A and 17.108.030; and no Sign shall exceed such applicable maximum heights as are prescribed hereafter in this Section.

B. Residential Signs. No single Residential Sign shall have a display surface greater than one (1) square foot on any one face, except that one (1) Residential Sign on each lot, other than a Sign identifying a home occupation, may have a display surface of not more than six (6) square feet on any one face if the lot contains Residential Facilities with a total of three (3) or more living units. No Residential Sign which is attached to a building shall have a display surface greater than one (1) square foot on any one face, unless it is flat against a wall of the building and does not project outward therefrom more than eighteen (18) inches nor at all above the roof or parapet wall of the building. No Residential Sign which is not attached to a building and which has a display surface greater than one (1) square foot on any one face shall extend more than six (6) feet above finished grade, nor be located within five (5) feet from any lot line. All Residential Signs shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not, except for Signs with a display surface not greater than one (1) square foot on any one face, include any pennants, streamers, propellers, or similar devices. (See also Section 17.112.040D.)

C. Special Signs. Special Signs shall be limited to the area of display surface, number, location, and height and kind of mobility, illumination, and material that are customary and necessary to the purposes they serve.

D. Development Signs. The maximum aggregate area of display surface of all Development Signs shall be either seventy-five (75) square feet on any one lot or, in the case of a real estate subdivision, seventy-five (75) square feet for each tract of two (2) or more lots which are separated from each other only by a street or other right-of-way; and all Development Signs shall be located on the lot or tract referred to thereon and shall be permitted only for a one-year period. However, a greater area of display surface, an off-site location, or a longer time period may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. No Development Sign which is attached to a building shall extend above the roof or parapet wall thereof. No Development Sign which is not attached to a building shall extend more than twenty-four (24) feet above finished grade, nor be located within five (5) feet from any lot line of an abutting lot. All Development Signs shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not, except when attached to a building, include any pennants, streamers, propellers, or similar devices.

E. Realty Signs. The maximum aggregate area of display surface of all Realty Signs on any one lot shall be six (6) square feet. All Realty Signs shall be located on the same lot as the facilities advertised thereon, and shall be removed within seven (7) days after occupancy, or change of occupancy, of the facilities. No Realty Sign which is attached to a building shall extend above the roof or parapet wall thereof. No Realty Sign which is not attached to a building shall extend more than six (6) feet above finished grade, nor be located within five (5) feet from any lot line of an abutting lot. All Realty Signs shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not, except when attached to a building, include any pennants, streamers, propellers, or similar devices.

F. Civic Signs. No single Civic Sign shall have a display surface greater than one (1) square foot on any one face, except that two (2) Civic Signs on each lot or, in the case of a lot with a lot area of more than twenty thousand (20,000) square feet, two (2) Civic Signs for each twenty thousand (20,000) square feet of lot area may have a greater display surface. The maximum total area of display surface of any two (2) such larger Signs shall be thirty (30) square feet. No Civic Sign which is attached to a building shall have a display surface greater than one (1) square foot on any one face, unless it is flat against a wall of the building and does not project outward more than eighteen (18) inches therefrom nor at all above the roof or parapet wall of the building. No Civic Sign which is not attached to a building and which has a display surface greater than one (1) square foot on any one face shall extend more than twelve (12) feet above finished grade, nor be located within five (5) feet from any lot line. All Civic Signs shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not, except for Signs with a display surface not greater than one (1) square foot on any one face, include any pennants, streamers, propellers, or similar devices.

G. Business Signs.

1. Business Signs serving Commercial Activities, other than Signs regulated by Subsection 17.104.010.G.3 and those regulated by Section 17.11.090, shall be limited to two (2) Signs, with a maximum aggregate area of display surface of fifteen (15) square feet, for each commercial establishment. All such Signs shall be located flat against a wall of the first story of a building, and no such Sign shall project outward more than eighteen (18) inches from such wall nor any distance above the roof or parapet wall of the building. All such Signs shall be nonmoving.

Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not, except in the case of Signs behind a display window, include any pennants, streamers, propellers, or similar devices.

2. No single Business Sign serving Agricultural or Extractive Activities shall have a display surface greater than one (1) square foot on any one face, except that one (1) such Sign on each lot may have a display surface of not more than six (6) square feet on any one face. All Business Signs which serve such activities, which are attached to a building, and which have a display surface greater than one (1) square foot on any one face shall be located flat against a wall of the first story of the building, and no such Sign shall project outward more than eighteen (18) inches from such wall nor any distance above the roof or parapet wall of the building. No Business Sign which serves such activities, which is not attached to a building, and which has a display surface greater than one (1) square foot on any one face shall extend more than six (6) feet above finished grade, nor be located within five (5) feet from any lot line. All Business Signs serving such activities shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not, except in the case of Signs behind a display window, include any pennants, streamers, propellers, or similar devices.

3. The maximum aggregate area of display surface of Business Signs serving off-street parking which is subject to the conditions set forth in Subsection 17.102.100.B shall be twelve (12) square feet for each vehicular entrance or exit. No such Sign shall extend more than six (6) feet above finished grade, nor be located within five (5) feet from any lot line. All such Signs shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not include any pennants, streamers, propellers, or similar devices.

H. Signs Within One Thousand (1,000) Feet of Rapid Transit Routes. Signs within one thousand (1,000) feet of the centerline of rapid transit routes shall be subject to the applicable limitations set forth in Sections 17.104.040 and 17.114.150

(Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12350 § 3 (part), 2001; Ord. 12078 § 5 (part), 1998; prior planning code § 7040)

Editor's note—

Ord. No. 13112, § 4(Exh. A), adopted April 30, 2012, changed the title of Section 17.104.010 from "General limitations on Signs in residential and OS zones, except the RU-4 and RU-5 zones" to "General limitations on Signs in Residential zones, except the RU-4 and RU-5 zones, and in Open Space (OS) zones." The historical notation has been preserved for reference purposes.

17.104.020 General limitations on Signs—RU-4 and RU-5 Zones, and all Commercial and Industrial Zones.

The following limitations shall apply to the specified Signs in the RU-4 and RU-5 Zones and all Commercial and Industrial Zones, and except as otherwise provided herein, and are in addition to the limitations, if any, prescribed for Signs in the applicable individual zone regulations and development control maps:

A. Design Review. No Business, Civic, or Residential Sign shall be constructed or established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136.

B. Permitted Aggregate Sign Area.

1. In the RU-4 and RU-5 Zones and all Commercial Zones, the maximum aggregate area of display surface of all Business, Civic, and Residential Signs on any one lot shall be one (1) square foot for each one (1) foot of lot frontage in the case of an interior lot, or one-half (0.5) square feet for each one (1) foot of lot frontage in the case of a corner lot. The aggregate shall include only one (1) face of a double-faced sign. The total amount of aggregate sign area shall not exceed two hundred (200) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B.3. below and to the Small project design review procedure in Chapter 17.136.

2. In all Industrial Zones, the maximum aggregate area of display surface of all Business, Civic and Residential Signs on any one lot shall be one (1) square foot for each one (1) foot of lot frontage in the case of an interior lot, or one-half (0.5) square feet for each one (1) foot of lot frontage in the case of a corner lot. The aggregate shall include only one (1) face of a double-faced sign. The total amount of aggregate sign area shall not exceed three hundred (300) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B.3. below.

3. Exception to Aggregate Sign Area Limits. The following exceptions to the aggregate sign area limits may be approved:

a. In cases in which the maximum aggregate sign area for a property is already being utilized by a portion of the existing tenant spaces in a multi-tenant building or complex, twenty (20) square feet of sign area for each tenant space in the multi-tenant building or complex without existing signage on site is allowed if approved pursuant to the Small project design review procedure in Chapter 17.136;

b. Signs conforming to a Master Sign Program approved pursuant to Section 17.104.070.

C. Maximum Height.

1. Attached Signs. The maximum height of any sign that is attached to a building may not exceed the height of the building wall that it is attached to.

2. Freestanding Signs. The maximum height of any freestanding sign in the CC, M-20, M-30, M-40, CIX, IG, IO, D-CE, D-CO-2, D-CO-3, D-CO-4, D-CO-5, and D-CO-6 Zones is twenty (20) feet. The maximum height in the RU-4 and RU-5 Zones and all other Commercial and Industrial Zones is ten (10) feet.

D. Limitations on Signs within Required Minimum Yards.

1. No business, realty, or development sign shall be located within a required minimum yard.

E. Special Limitations Near Boundaries of Residential Zones, Except the RU-4 and RU-5 Zones. The following special limitations shall apply to the indicated Signs within the

specified distances from any boundary of a Residential Zone, except the RU-4 and RU-5 Zones. For the purposes of this Subsection, a Sign shall be deemed to face a zone boundary if the angle between the face of its display surface and said boundary is less than ninety (90) degrees; and a sign shall be considered visible from a zone boundary if it may be seen from any point located along such boundary within the following indicated distances from the sign and at a height equal to or less than that of the sign.

1. Within twenty-five (25) feet from any boundary of a Residential Zone, except the RU-4 and RU-5 Zones, no business sign shall face said boundary if it is visible therefrom.

F. Development Signs. In the RU-4 and RU-5 Zones and all Commercial and Industrial Zones, the maximum aggregate area of display surface of all Development Signs on any one lot shall be either seventy-five (75) square feet or one (1) square foot for each two (2) feet of street line abutting the lot, whichever is greater. However, a greater area of display surface may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

G. Realty Signs. In the RU-4 and RU-5 Zones and all Commercial and Industrial Zones, the maximum aggregate area of display surface of all Realty Signs on any one lot shall be one (1) square foot for each two (2) feet of street line abutting the lot; provided that such area shall not exceed twenty-five (25) square feet along any consecutive fifty (50) feet of street line; and farther provided that a sign with a display surface of twelve (12) square feet or less shall be permitted for each lot, or for each building or other rentable unit thereon.

H. Signs Within One thousand (1,000) Feet of Rapid Transit Routes. Signs within one thousand (1,000) feet of the centerline of rapid transit routes shall be subject to the applicable limitations set forth in Sections 17.104.040 and 17.114.150.

I. Permitted Projection Over Sidewalk. An awning, canopy, marquee, or single sign that is attached perpendicularly to the face of a building may project up to two-thirds (66.7%) of the distance from the lot line to the curb, but cannot extend more than seven (7) feet from the face of building or closer than two (2) feet to the curb. Any awning, canopy, marquee, or single sign that is attached perpendicularly to the face of a building shall provide eight (8) feet minimum clearance above a sidewalk for framed or rigid portions, and seven (7) feet minimum clearance for any unframed valance.

J. Temporary Business Signs.

1. Size Allowed. Temporary signs are allowed in addition to permanent signs. The size of the temporary signs may not exceed the allowed square footage for permanent signs.

2. Allowed Time Limits.

   a. Grand Opening Signs. Temporary signs for the purpose of grand openings of a new business can be in place for a maximum of thirty (30) days. The installation date of the sign shall be placed on the sign to verify compliance with this regulation.

   b. Special Event Signs. Temporary signs for the purpose of special events may be placed on site a maximum of four (4) times per calendar year and a maximum of five (5) consecutive days per event.

3. Placement of Signs.

a. Signs are allowed on private property only. Signs shall not be placed in public rights-of-way or at off-site locations.

b. Signs must be affixed to a permanent structure.

4. Temporary Signs shall not be illuminated.

5. Durable Materials Required. Signs shall be constructed of durable, rigid material suitable to the location and purpose. Only interior window Signs may he made of nonrigid (e.g. paper) material.

6. Removal of Signs. Temporary Signs and their components shall be promptly removed at the expiration of the time limits set forth above.

K. Window Signs. Window signs shall not take up more than twenty-five percent (25%) of any one window. Window signs shall count against the total allowable aggregate sign area for the property as measured in Subsection 17.104.020.B. Interior signs which are located eighteen (18) inches or more from behind the window face shall be exempt from these regulations.

L. Clear Sight Restrictions. A triangular area measuring fifteen (15) feet from the intersection along each street line shall be kept free of all freestanding signs. A triangular area measuring ten (10) feet from the intersection of a driveway and a street line shall be kept free of all freestanding signs.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12606 Att. A (part), 2004: prior planning code § 7041)

Editor's note—

Ord. No. 13090, § 4(Exh. A), adopted October 4, 2011, changed the title of Section 17.104.020 from "General limitations on signs—Commercial and industrial zones" to "General limitations on signs—Commercial and industrial zones and the RU-4 and RU-5 zones." The historical notation has been preserved for reference purposes.

17.104.030 General limitations on Signs—S-1, S-2, S-3, D-CO-1, and S-15 Zones.

The following limitations shall apply to the specified Signs in the S-1, S-2, S-3, D-CO-1, and S-15 Zones, and are in addition to the limitations, if any, prescribed for Signs in the applicable individual zone regulations or development control maps:

A. Design Review. No Business. Civic, or Residential Sign shall be constructed or established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136.

B. Permitted Aggregate Sign Area. S-1, S-2, S-3, D-CO-1, and S-15 Zones. The maximum aggregate area of display surface of all Business, Civic, and Residential Signs on any one lot shall be one (1) square foot for each one foot of lot frontage in the case of an interior lot, or one-half (0.5) square feet for each one (1) foot of lot frontage in the case of a corner lot. The aggregate shall include only one (1) face of a double-faced sign. The total amount of aggregate sign area shall not exceed two hundred (200) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B.1. below.

1. Exception to Aggregate Sign Area Limits. The following exceptions to the aggregate sign area limits may be approved:

   a. In cases in which the maximum aggregate sign area for a property is already being utilized by a portion of the existing tenant spaces in a multi-tenant building or complex, twenty (20) square feet of sign area for each tenant space in the multi-tenant building or complex without existing signage on site is allowed if approved pursuant to the Small project design review procedure in Chapter 17.136;

   b. Signs conforming to a Master Sign Program approved pursuant to Section 17.104.070.

C. Maximum Height.

1. Attached Signs. The maximum height of any sign that is attached to a building may not exceed the height of the building wall that it is attached to.

2. Freestanding Signs. The maximum height of any freestanding sign in the S-1, S-2, S-3, D-CO-1, and S-15 Zones is ten (10) feet.

D. Special Limitations Near Boundaries of Residential Zones, except the RU-4 and RU-5 Zones. Signs shall be subject to the same special limitations along or near boundaries of Residential Zones, except the RU-4 and RU-5 Zones, as are set forth in Subsection 17.104.020.E.

E. Special, Development, and Realty Signs. All Special, Development, and Realty Signs shall be subject to the same limitations as are set forth in Subsections C., D. and F. of Section 17.104.010 for such Signs in Residential Zones, except the RU-4 and RU-5 Zones.

F. Signs within One Thousand (1,000) Feet of Rapid Transit Routes. Signs within one thousand (1,000) feet of the centerline of rapid transit routes shall be subject to the applicable limitations set forth in Sections 17.104.040 and 17.114.150.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12606 Att. A (part), 2004: prior planning code § 7042)

17.104.040 Limitations on Signs within one thousand (1,000) feet of rapid transit routes.

The following limitations shall apply in all zones, within one thousand (1,000) feet of the centerline of every rapid transit route, after the date of official determination thereof and except where the route is underground. The distance shall be measured perpendicularly from said centerline, i.e., at right angles to said centerline. These provisions shall not prohibit a sign identifying an on-premises business or naming the product manufactured thereon, except to the extent of requiring design review approval.

A. Design Review for Certain New or Altered Signs the Advertising Material of Which Is Primarily Viewable from the Transit Route.

1. No sign the advertising material of which is or has become primarily viewable by the passengers on the transit route shall be constructed, established, reoriented, changed as to illumination, or otherwise altered or painted a new color unless plans for such Sign have been approved pursuant to the regular design review procedure in Chapter 17.136.

2. The Director of City Planning shall determine which signs are or have become primarily viewable by the passengers on the transit route, subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

B. Removal of Nonconforming Existing Signs. See Section 17.114.150.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12606 Att. A (part), 2004: prior planning code § 7046)

17.104.050 Amortization of Advertising Signs in Residential Zones.

A. Removal Criteria. In accordance with California Business and Professions Code Section 5412.1, those Advertising Signs meeting all of the following criteria shall be removed within the time periods set forth below without compensation:

1. The Advertising Sign is located within an area shown as Residential in the Oakland General Plan; and
2. The Advertising Sign is located within an area zoned for residential use; and
3. The Advertising Sign is not located within six hundred sixty (660) feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond six hundred sixty (660) feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way; and
4. The Advertising Sign is not required to be removed because of an overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.

B. Advertising Sign Removal. Any Advertising Sign meeting all criteria listed in Subsection A. of this Section shall be removed at the close of the amortization period listed below:

Fair Market Value on Date of Notice of Removal Requirement	**Minimum Years Allowed**
Under $1,999	2
$2,000 to $3,999	3
$4,000 to $5,999	4
$6,000 to $7,999	5
$8,000 to $9,999	6
$10,000 and over	7

The amounts provided in this Section shall be adjusted each January 1st after January 1, 1983 in accordance with the changes in building costs as indicated in the United States Department of Commerce Composite Index for Construction Costs.

The Director of City Planning, or his/her designee, shall determine the Fair Market Value of the Advertising Sign and the resulting amortization period. The amortization period shall run from the date of the notice of amortization, which shall be sent to Advertising Sign owners and underlying property owners via U.S. Mail. Underlying property owners, for the purposes of this Section, are those names contained on the latest available equalized assessment role. Failure

to receive the notice of amortization shall not invalidate or otherwise affect the amortization period.

C. Administrative Appeal Procedure.

1. Appeal Period. Within ninety (90) days of receipt of a notice of amortization, an appeal may be filed by any interested party with the Director of City Planning challenging the City's determination. The Director of City Planning will forward the appeal to the City Administrator for final determination.

2. Grounds for Appeal. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the City or where the City's determinations are not supported by the evidence in the record. The burden is on the appellant to provide sufficient evidence and arguments to overturn the initial City determinations. The minimum information to be included in an appeal is:

   a. Identification of specific billboard under appeal;

   b. Specific determination of the City being challenged;

   c. Current photograph of billboard;

   d. Legal and factual documentation to support the challenge, including, without limitation, building permits (if available) and repair/improvement records.

   The City may request additional information as it deems reasonably necessary to complete the review.

3. Failure to Timely Appeal. Failure to timely file an appeal will waive any rights to further challenge the City's determination contained in the notice of amortization.

4. Appeal Fee. Established per master fee schedule. Appellants shall be allowed to file one (1) appeal and pay one (1) appeal fee where the City Administrator determines that similar issues are raised and the payment of multiple fees would be unreasonable.

5. Notification of Completeness. The City will notify appellant within forty-five (45) business days of appeal submittal whether the appeal application is deemed complete. City failure to notify appellant within said time period will deem the application complete. This does not preclude the City from requesting additional information after the application has been deemed complete.

6. Written Determination. The City will provide appellant with a written decision within ninety (90) days of receipt of a complete appeal application, unless an extension is agreed to by the appellant. Request by the City for additional information after the application has been deemed complete will not modify the timing of the ninety (90) day period during which the written determination is being made, provided that the appellant responds in a timely manner to the City request. Failure of the City to timely issue a written decision shall result in granting of the appeal.

7. Decision Final. The written decision of the City Administrator is final and not administratively appealable.

(Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. 12776 § 3, Exh. A (part), 2006; Ord. 12146 §§ 3, 4, 1999; Ord. 12073 § 7, 1998)

17.104.060 General Limitations on Advertising Signs.

Notwithstanding any provisions to the contrary contained within the Planning Code, Advertising Signs are not permitted in Oakland except: (1) as otherwise provided for in this Code, or (2) pursuant to a franchise agreement or relocation agreement authorized by the Oakland City Council, which expressly allows Advertising Signs and then only under the terms and conditions of such agreements.

(Ord. 12425 § 2, 2002)

17.104.070 Master Sign Programs.

A. Submittal Requirements. In all Commercial and Industrial Zones, as well as the RU-4, RU-5, S-1, S-2, S-3, and S-15 Zones, any Commercial, Industrial, or mixed use building or complex containing two (2) or more tenant spaces on site may apply for a Master Sign Program which specifies the overall design, configuration, and permitted sizes of Signs for that building or complex. Applications for a Master Sign Program shall identify, at a minimum, the permitted sign sizes, materials, colors, placement, construction, method of lighting, and other related sign requirements for the applicable Commercial, Industrial, or mixed use building or complex. Drawings shall indicate the exterior surface details of all buildings on the site; the typical sign locations, designs, colors, and faces; and the methods of sign construction, installation, and lighting.

B. Use Permit Criteria. A Master Sign Program may be allowed to deviate from the normally required sign standards in this Chapter, including but not limited to, total aggregate sign area. A Master Sign Program application which would deviate from the normally required sign standards shall be processed as a conditional use permit under the provisions of Chapter 17.134. A conditional use permit for a Master Sign Program may only be granted upon determination that the proposed sign program conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to all of the following additional use permit criteria:

    1. That the proposal will be of a quality and character appropriate to the Commercial, Industrial, mixed use building or complex;

    2. That the building facade and other walls will be considered and treated as a whole, and in relationship to adjoining buildings;

    3. That all Signs will be harmonious with the architectural design of the building and adjacent buildings, and will not cover or detract from a building's significant architectural features.

C. Review of Individual Signs Upon Approval of a Master Sign Program. Once a Master Sign Program is approved for any multi-tenant building or complex, the following provisions shall apply:

    1. Sign applications determined to conform to the provisions of an approved Master Sign Program shall be exempt from design review as is otherwise specified in Chapter 17.136.

    2. Sign applications determined to not conform to an approved Master Sign Program may only be granted upon approval of a revision to the original Master Sign Program conditional use permit.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

Chapter 17.106 GENERAL LOT, DENSITY, AND AREA REGULATIONS

Sections:

17.106.010 Lot area and width exceptions.

17.106.020 Exceptions to street frontage requirement.

17.106.030 Maximum density and Floor-Area Ratio on lots containing both Residential and Nonresidential Facilities.

17.106.040 Use permit criteria for increased density or Floor-Area Ratio for high-rise Residential Facilities.

17.106.050 Use permit criteria for increased density or Floor-Area Ratio with acquisition of abutting development rights.

17.106.060 Increased number of living units in senior citizen housing.

17.106.010 Lot area and width exceptions.

The minimum lot area and lot width requirements prescribed in the applicable individual zone regulations shall be subject to the following exceptions:

A. Existing Substandard Parcel. Any existing substandard parcel of contiguous land may be developed as a lot if such parcel existed lawfully under the previous zoning controls.

B. Division of Parcel with Existing Buildings. Where a parcel contains two (2) or more existing principal buildings which were lawfully established, said parcel may be divided into two (2) or more lots which do not have the minimum lot area, minimum lot width, and minimum frontage, yards, open space, and parking requirements otherwise applying to the divided lots may be waived or modified upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. Each resulting lot shall accommodate at least one existing principal building and each lot shall have frontage on a street. A conditional use permit may be granted only upon determination that the proposal conforms to the general use permit criteria in Chapter 17.134 and to the following special criteria:

1. That all principal structures existed lawfully under the previous zoning controls, and are habitable or in sound condition;
2. That the proposal will not result in a lot which is so small, so shaped, or so situated that it would be impractical for subsequent permitted uses;
3. That the proposal will maintain the existing amount of usable open space and off-street parking spaces for any Residential Facilities involved.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. 12872 § 4 (part), 2008; prior planning code § 7050)

17.106.020 Exceptions to street frontage requirement.

Notwithstanding the requirements prescribed in the applicable individual zone regulations with respect to minimum frontage upon a street, a lot which does not meet such requirements may be created and/or developed in each of the following situations:

A. If it has a frontage of not less than twenty-five (25) feet upon an undedicated vehicular way, other than one similar in function to an alley or path, which has a right-of-way not less than forty (40) feet in width and which was shown on the sewer maps on file with the City Engineer on the effective date of the zoning regulations;

B. If it is served by a private access easement approved pursuant to the real estate subdivision regulations and subject to the provisions of Section 17.102.090;

C. If it consists of a parcel of contiguous land which existed lawfully under the previous zoning controls;

D. If it meets the same conditions as are prescribed in Section 17.106.010 for lot area and width exceptions;

E. With the exception of Subsections B. and C. of this Section, nothing in this Section shall exempt parcels in the S-11 Zone from any street frontage requirement.

(Ord. 12872 § 4 (part), 2008; prior planning code § 7051)

17.106.030 Maximum density and floor-area ratio on lots containing both Residential and Nonresidential Facilities.

The maximum density and Floor-Area Ratio (FAR) requirements prescribed in the applicable individual zone regulations shall be subject to the following methods for calculating the portion of lot area used in computing density:

A. Portion of Lot Area Used in Computing Density in the Central Business District and Jack London District. For mixed use projects in the Central Business District and Jack London district, the allowable intensity of development shall be measured according to both the maximum nonresidential Floor Area Ratio (FAR) allowed by the zone and the maximum residential density allowed by the zone. The total lot area shall be used as a basis for computing both the maximum nonresidential FAR and the maximum residential density. (The Central Business District is that area identified as part of the Land Use and Transportation Element Land Use Diagram of the General Plan. The Jack London district is that area identified as part of the Estuary Policy Plan and adopted as part of the General Plan).

B. Portion of Lot Area Used in Computing Density in Areas other than the Central Business District and Jack London District. For mixed use projects located in areas other than the Central Business District and Jack London district, in which a maximum Floor Area Ratio (FAR) is generally prescribed for Nonresidential Facilities, no portion of lot area used to meet the density requirements for a Residential Facility shall be used as a basis for computing, through such FAR, the maximum amount of floor area for any Nonresidential Facility on the same lot, unless the total Nonresidential floor area on the lot is less than three thousand (3,000) square feet.

C. Different Floor-Area Ratios. In all zones in which the maximum Floor-Area Ratio (FAR) generally prescribed for Residential Facilities is different from that for Nonresidential Facilities, the overall maximum FAR of any lot containing both Residential and

Nonresidential Facilities shall be the greater of the two prescribed FARs. However, the total floor area actually devoted to each class of facility shall not exceed the maximum ratio prescribed for that class.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12772 § 1 (part), 2006; Ord. 12349 § 3, 2001; prior planning code § 7053)

17.106.040 Use permit criteria for increased density or Floor-Area Ratio for high-rise Residential Facilities.

A conditional use permit for an increase in the number of living units or Floor-Area Ratio (FAR) for a Residential Facility with more than four (4) stories containing living units, wherever such increase is provided for in the applicable individual zone regulations, may 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 all of the following additional use permit criteria:

A. That openness of development, limitation of site coverage, and the design of the facilities effectively compensate for the potential effect of the added structural bulk upon adjoining properties and the surrounding area;

B. That the shape and siting of the facilities are such as to minimize blocking of views or sunlight from adjoining lots or from other Residential Facilities in the surrounding area;

C. That usable open space is provided substantially in excess of the amount otherwise required.

(Ord. 12872 § 4 (part), 2008; prior planning code § 7057)

17.106.050 Use permit criteria for increased density or Floor-Area Ratio with acquisition of abutting development rights.

A conditional use permit for an increase in the number of living units or Floor-Area Ratio (FAR) upon acquisition of nearby development rights, wherever such increase is provided for in the applicable individual zone regulations, may 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 all of the following additional use permit criteria:

A. That the applicant has acquired development rights from the owners of abutting lots, restricting the number of living units or the amount of floor area which may be developed thereon so long as the facilities proposed by the applicant are in existence;

B. That the owners of all such abutting lots shall prepare and execute an agreement, approved as to form and legality by the City Attorney and filed with the Alameda County Recorder, incorporating such restriction;

C. That the resultant reduction in potential number of living units or amount of floor area on the abutting lots is sufficient in amount and is so located as to cause the net effect upon the surrounding neighborhood to be substantially equivalent to that of the development which would be allowable otherwise.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; prior planning code § 7058)

17.106.060 Increased number of living units in senior citizen housing.

Wherever provided for in the applicable individual zone regulations, the number of residential living units otherwise permitted or conditionally permitted may be increased by not to exceed seventy-five percent (75%) in senior citizen housing where living units are regularly occupied by not more than two individuals at least one of whom is sixty (60) years of age or older or is physically handicapped regardless of age, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that the proposal conforms to both of the following additional use permit criteria:

A. That such occupancy is guaranteed, for a period of not less than fifty (50) years, by appropriate conditions incorporated into the permit;

B. That the impact of the proposed facilities will be substantially equivalent to that produced by the kind of development otherwise allowed within the applicable zone, with consideration being given to the types and rentals of the living units, the probable number of residents therein, and the demand for public facilities and services generated.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; prior planning code § 7059)

Chapter 17.107 DENSITY BONUS AND INCENTIVE PROCEDURE

Sections:

17.107.010 Title, purpose, and applicability.

17.107.020 Definitions.

17.107.030 Application.

17.117.040 Density Bonus.

17.107.050 Land Donation.

17.107.060 Child Care Facilities.

17.107.070 Condominium Conversions

17.107.080 Density incentives or concessions.

17.107.090 Permitted number of density incentives or concessions.

17.107.095 Waiver of Development Standards

17.107.100 City's findings for denial of incentives or concessions.

17.107.110 Condition required for continued affordability.

17.107.111 Eligibility requirements.

17.107.112 Density bonus resale agreement.

17.107.113 Management and monitoring.

17.107.114 Administrative fee for target living units.

17.107.115 City's right to deny a project.

17.107.120 Parking ratio reductions mandated by California Government Code

17.107.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Density Bonus and Incentive Procedure Regulations. The purpose of these provisions is to encourage the construction of affordable housing, senior housing, the provision of child care facilities, and other incentives and concessions, following California Government Code, Sections 65915-65918 (formerly known as the "density bonus").

The Density Bonus and Incentive Procedure is intended to comply with provisions of the California Government Code Section 65915-65918 (inclusive), which provides that a local government shall grant a density bonus and concessions, or financially equivalent incentive(s), to a developer of a housing development constructing a specified percentage of housing for low income households, very low income households, senior citizens, or providing child care facilities. This procedure shall apply to all proposals, citywide, to create five (5) or more living units in which the developer is requesting the density bonus. Any provision in California Government Code Section 65915-65918 (inclusive), but not included in this Chapter is considered by the City of Oakland to be valid and applicable.

17.107.020 Definitions.

A. Affordable Housing. "Affordable housing" shall mean that the relevant housing is available on terms such that the housing costs are less than a specified percentage of the gross income of households within a particular income category (adjusted for household size, depending on the number of bedrooms in the living unit) as determined for the Oakland Primary Metropolitan Statistical Area (PMSA). For a rental unit, housing costs include rent and a reasonable allowance for utilities. For a for-sale unit, housing costs include loan principal, loan interest, property and mortgage insurance, property taxes, home owners' association dues and a reasonable allowance for utilities.

B. Affordable Housing Cost shall mean the allowable percentage of gross household income a household spends on housing costs for a given income group, as defined below.

1. Where units are targeted as being affordable to low income households, housing costs for rental units must be equal to or less than thirty percent (30%) of the gross monthly income, adjusted for household size, of sixty percent (60%) of the median income for the Oakland PMSA. Housing costs for for-sale units must be equal to or less than thirty percent (30%) of the gross monthly income, adjusted for household size, of seventy percent (70%) of the median income.

2. Where units are targeted as being affordable to very low income households, housing costs for rental units and for for-sale units must be equal to or less than thirty percent (30%) of the gross monthly income, adjusted for household size, of fifty percent (50%) of the median income for the Oakland PMSA.

3. Where units are targeted as being affordable to moderate income households, housing costs for rental units must be equal to or less than thirty percent (30%) of the gross monthly income, adjusted for household size, of one hundred twenty percent (120%) of the median income for the Oakland PMSA. Housing costs for for-sale units must be equal to or less than thirty-five percent (35%) of the gross monthly income, adjusted for household size, of one hundred twenty percent (120%) of the median income.

C. Child Care Facility, for the purposes of this Chapter only, the following definitions in California Government Code Sections 65915 (h) (4) and 65917.5 (a) (1) shall apply:

> "Child care facility,"(65915 (h) (4)) as used in this Section, means a child day care facility other than a family day care home, including but not limited to, infant centers, preschools, extended day care facilities, and school-age child care centers.
>
> "Child care facility" (65917.5 (a) (1)) means a facility installed, operated, and maintained under this Section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

D. Concession or Incentive , includes the standards of California Government Code Section 65915(k), and shall mean a reduction in site development standards, or a modification to a requirement of the Oakland Planning Code, or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission, that would otherwise be required, which result in identifiable, financially sufficient, and actual cost reductions (as demonstrated by the developer).

E. Density Bonus shall mean a maximum thirty-five percent (35%) density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and/or Oakland General Plan, or specific plan, and shall follow the definition in the California Government Code Section 65915 (f). The density bonus shall not be included when determining the number of target units that must be affordable to the relevant income group.

F. Developer shall mean the owner or other person, including a lessee, having the right under the Oakland zoning ordinance, to make an application for development approvals for the development, or redevelopment, of a commercial or industrial project.

G. Development standard shall mean a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio, that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

H. Economically Feasible shall mean that a housing development can be built with a reasonable rate of return. The housing developer's financial ability to build the project shall not be a factor.

I. Maximum allowable residential density shall mean the density allowed under the zoning ordinance, and the Land Use and Transportation Element of the Oakland General Plan; or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and the range in the Land Use and Transportation Element of the Oakland General Plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the Land Use Element of the Oakland General Plan, the general plan density shall prevail.

J. Moderate, Low and Very Low Income Households shall mean those households whose income matches levels determined periodically by the U.S. Department of Housing and Urban Development, based on the Oakland Primary Metropolitan Statistical Area (PMSA) median income levels by family size, under which:

1. "Moderate income" is defined as greater than eighty percent (80%) to one hundred twenty percent (120%) of median income (see Section 50093 of the California Health and Safety Code);.

2. "Low income" is defined as greater than fifty percent (50%) to eighty percent (80%) of median income; (see Section 50079.5 of the California Health and Safety Code);

3. "Very low income" is defined as less than fifty percent (50%) of median income (see Section 50105 of the California Health and Safety Code).

K. Residential Housing Development shall mean, for the purposes of this Chapter, a project involving the construction of five (5) or more residential dwelling units, excluding any units permitted by the density bonus awarded pursuant to this Chapter. Further, a "housing development" is as defined in California Government Code Section 65915(i). (Ord. 12501 § 74, 2003: Ord. 12331 § 2 (part), 2001)

L. Senior Citizen Housing Development shall mean the development, substantial rehabilitation, or substantial renovation of at least thirty-five (35) dwelling units reserved for

senior citizens, where each unit houses at least one person fifty-five (55) years of age or older, and/or a qualified permanent resident, as described in Section 51.3 of the California Civil Code; further, it shall also mean a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the California Civil Code.

M. Target Living Unit shall mean a living unit that will be offered for rent or sale exclusively to and which shall be affordable to the designated income group or senior citizens.

17.107.030 Application.

An application shall be filed with the Oakland Planning and Zoning Division for a Density Bonus and/or Incentive(s), Concession(s) and Waiver(s); the application shall be made by the owner of the affected property, or his or her authorized agent. The application shall be accompanied by such information including, but not limited to, site and building plans, drawings and elevations, and operational data, as may be required to permit the review of the proposal in the context of the required findings, and by the fee prescribed in the City's Master Fee schedule, and any additional information deemed necessary by the City Planning Department.

An application for a Density Bonus and related incentive(s) or concession(s) shall be included in the application for design review for a housing development and shall be processed and considered as part of same. The application for a density bonus and related incentive(s) shall include:

A. A written statement specifying the desired density increase, incentive requested and the type, location, size and construction scheduling of all living units;

B. A project financial report (pro forma), as required justifying the granting of any incentive(s) and / or concession(s) in addition to the density bonus;

C. Information demonstrating that any requested incentive(s), concession(s) and/or waiver(s) are necessary to make the units affordable, or available to seniors. Information could include: calculations of affordability, evidence that incentives and concessions provide "identifiable, financially sufficient, and actual cost reductions," and economic analyses to show that any waivers are required to make the project economically feasible;

D. Any other such information as may be required to permit the review of the proposal in the context of the required findings, as requested by the Director of City Planning.

17.107.040 Density Bonus.

A. The City shall grant a Density Bonus not exceeding thirty-five percent (35%), and incentive(s) or concession(s) described in Section 17.107.080, when an applicant for a Residential Housing Development or a Senior Housing Development seeks, and agrees to construct, at least any one of the following categories:

1. Ten percent (10%) of the total Dwelling Units of a Residential Housing Development for Lower Income Households; or

2. Five percent (5%) of the total Dwelling Units of a Residential Housing Development for Very Low Income Households; or

3. A Senior Citizen Housing Development; or

4. Ten percent (10%) of the total Dwelling Units in a common interest development as defined in Section 1351 of the California Civil Code, for persons and families of Moderate Income, provided that all units in the development are offered to the public for purchase.

B. For residential housing developments meeting category 1 above, the density bonus shall be calculated as indicated in Table 17.107.01:

Table 17.107.01: Density Bonus for providing units for Low Income Households

Percentage Low-income units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

Source: California Government Code, Section 65915 (f) (1)

C. For residential housing developments meeting category 2 in Section 17.107.040(A) above the density bonus shall be calculated as indicated in Table 17.107.02:

Table 17.107.02: Density Bonus for providing units for Very Low Income Households

Percentage Very Low income units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

Source: California Government Code, Section 65915 (f) (2)

D. For Senior Citizen Housing Developments meeting category 3 in Section 17.107.040(A) above, the density bonus shall be twenty percent (20%) of the number of senior housing units. This California Government Code Senior Housing Density Bonus shall be separate from, and not combined with, the City of Oakland Senior Housing Density Bonus

which, if a Conditional Use Permit is approved, permits an increase of seventy-five percent (75%) more senior housing units than are permitted by Zoning, as described in 17.106.060.

E. For common interest developments meeting the category 4 in Section 17.107.040(A) above, the density bonus shall be calculated as indicated in Table 17.107.03.

Table 17.107.03: Density Bonus for common-interest developments

Percentage Moderate-income units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

Source: California Government Code, Section 65915 (f) (4)

F. The applicant shall elect whether the Density Bonus shall be awarded on the basis of category 1, 2, 3, or 4 in Section 17.107.040(A) above. The applicant may elect to accept a lesser percentage of density bonus. All density calculations resulting in fractional units shall be

rounded up to the next whole number. The granting of a Density Bonus shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of target units that must be affordable to the relevant income group.

G. The maximum Density Bonus available in Oakland is thirty-five percent (35%).

17.107.050 Land Donation

A. **Eligibility.** A project involving a land donation to the City shall be eligible for the increased Density Bonus described in this Section if all of the following conditions are met:

1. The applicant donates and transfers the land to the City no later than the date of approval by the City of the final subdivision map, parcel map, or residential development application of the Residential Development Project seeking the Density Bonus.

2. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to Very Low Income households in an amount not less than ten percent (10%) of the number of residential units of the proposed Residential Development Project seeking the Density Bonus.

3. The transferred land is characterized by the following:

(a) It is at least one acre in size, or of sufficient size to permit development of at least forty (40) units; and

(b) It has the appropriate General Plan designation and is appropriately zoned for affordable housing; and

(c) It is or will be served by adequate public facilities and infrastructure; and

(d) It shall have appropriate zoning and development standards to make the development of the Affordable Housing Units feasible; and

(e) No later than the date of approval of the final subdivision map, parcel map, or of the Residential Development Project seeking the Density Bonus, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the Very Low Income housing units on the transferred land, except that the City may subject the proposed Residential Development Project to subsequent design review, if the design is not reviewed by the City prior to the time of transfer.

4. The transferred land and the Affordable Housing Units shall be subject to a deed restriction, which shall be recorded on the property at the time of dedication, ensuring continued affordability of the units for a term of at least thirty (30) years.

5. The land is transferred to the City or to another housing developer approved by the City.

6. The transferred land shall be within the boundary of the proposed Residential Development Project or, if the City agrees, within one-quarter mile of the boundary of the proposed Residential Development Project.

B. When an applicant donates land to the City, the applicant shall be entitled to a fifteen percent (15%) increase above the otherwise maximum allowable residential density under the applicable Zoning ordinance and Land Use and Transportation Element of the Oakland General Plan for the entire Residential Development Project, as indicated in Table 17.107.04.

Table 17.107.04: Land Donation

Percentage Very Low income units	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

Source: California Government Code, Section 65915 (g) (1)

C. This Density Bonus shall be in addition to any Density Bonus mandated by Section 17.107.040; up to a maximum combined density increase of thirty-five percent (35%), if the applicant seeks both the increase required under this Section and the increase under Section 17.107.040.

17.107.060 Child Care Facilities

A. **Residential development.** When an applicant proposes to construct a Residential Development Project that conforms to the requirements of Section 17.107.040 (i.e. a Density Bonus), and includes a Child Care Facility that will be located on the premises of, as part of, or adjacent to, the Residential Development Project, the City shall grant either of the following:

1. An additional Density Bonus that is an amount of square feet of residential space that is equal to, or greater than, the amount of square feet in the Child Care Facility; or

2. An additional concession or incentive designated by the City that would contribute significantly to the economic feasibility of the construction of the Child Care Facility.

B. **Requirements**. The City shall require, as a condition of approving the Residential Development Project, that the following occur:

1. The Child Care Facility shall remain in operation for a period of time that is as long as, or longer than, the period of time during which the Affordable Housing Units are required to remain affordable pursuant to this Article; and

2. Of the children who attend the Child Care Facility, the children of Very Low Income Households, Lower Income Households, Moderate Income Households shall equal a percentage that is equal to, or greater than, the percentage of Dwelling Units that are made affordable to Very Low Income Households, Lower Income Households, or families of Moderate Income Households pursuant to Section 17.107.040.

C. **Commercial or industrial development.** California Government Code (Section 65917.5) permits a Density Bonus when a child care facility is installed, operated and maintained in a commercial or industrial project, over the otherwise maximum allowable density permitted under the applicable Zoning ordinance and land use element of the Oakland General Plan. The bonus shall be calculated as follows:

1. A maximum of five (5) square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

2. A maximum of ten (10) square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this Section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

D. Notwithstanding any requirement of this Section, the City shall not be required to provide a Density Bonus or concession for a Child Care Facility if it finds, based upon substantial evidence, that the community has adequate child care facilities. Further, the provisions of California Government Code Section 65917.5 (Subsections c-e) shall apply in Oakland.

17.107.070 Condominium Conversions

A. Residential Development Project involving the conversion of existing apartments into condominiums, pursuant to Title 16 Oakland Subdivision Regulations, that includes at least thirty-three percent (33%) of its total units restricted to moderate income households for thirty (30) years, or fifteen percent (15%) of its total units affordable to Lower Income households for thirty (30) years, and agrees to pay for the administrative costs incurred by the City related to process the application and monitor the future status of the Affordable Housing Units, the City shall either:

(i) grant a Density Bonus, increasing the number of residential units by twenty-five percent (25%) over the number of apartments, to be provided within the existing structure or structures proposed for conversion; or

(ii) provide other incentives of equivalent financial value to be determined by the City. For purposes of this Section, "other incentives of equivalent financial value" shall not be construed to require the City of Oakland to provide cash transfer payments or other monetary compensation, but may include the reduction, or waiver, of requirements which the City might otherwise apply as conditions of conversion approval.

B. An applicant for approval to convert apartments to a condominium project may submit to the City a preliminary proposal ("Pre-Application") pursuant to this Section prior to the submittal of any formal requests for subdivision map approvals. The City shall, within ninety (90) days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this Section.

C. An applicant shall be ineligible for a Condominium Conversion Density Bonus or other incentives under this Section if the apartments proposed for conversion constitute a Residential Development Project for which a Density Bonus or other incentives were previously granted under this Chapter.

17.107.080 Density Incentives or Concessions

A density incentive or concession is a benefit offered by the city that results in direct cost reductions and facilitates construction of eligible projects as defined by the provisions of this Chapter and shall mean any of the following:

A. The reduction in development standards in order to allow utilization of a density bonus, including but not limited to:

1. Required off-street parking;
2. Required setbacks;
3. Maximum building height;
4. Required open space;
5. Maximum Floor-Area Ratio (FAR);
6. Minimum lot area.
7. Minimum courtyards.

B. Approval of a mix of allowed uses in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development, and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

C. Other regulatory incentives or concessions proposed by the developer, or the City, that would result in identifiable, financially sufficient, and actual cost reductions, as demonstrated by the developer.

17.107.090 Permitted Number of Density Incentives or Concessions

A. Number of Incentives or Concessions. Except as otherwise provided by Section 17.107.100, when an applicant proposes to construct a Residential Development Project that conforms to the requirements of Section 17.107.040, the applicant shall receive the following number of incentives or concessions, as summarized in Table 17.107.05 below:

1. One incentive or concession for projects that include at least percent (10%) of the total units for lower income households, at least five percent (5%) for very low income households, or at least ten percent (10%) for persons and families of moderate income in a common interest development.

2. Two incentives or concessions for projects that include at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) for very low income households, or at least twenty percent (20%) for persons and families of moderate income in a common interest development.

3. Three incentives or concessions for projects that include at least thirty percent (30%) of the total units for lower income households, at least fifty percent (15%) for very low income households, or at least thirty percent (30%) for persons and families of moderate income in a common interest development.

Table 17.107.05: Number of Incentives or Concessions

	Required Percentage of Units Restricted for Very Low Income Households	**Required Percentage of Units Restricted for Low Income Households**	**Required Percentage of Units Restricted for Moderate Income Households (for sale)**	**Notes**
One Incentive	5	10	10	1
Two Incentives	10	20	20	1
Three Incentives	15	30	30	1

Source: California Government Code Section 65915 (d) (2) (A)

Notes:
1. Excludes density bonus units

17.107.095 Waiver of Development Standards.

A. Per California Government Code 65915 (e) (1), in no case may a city apply any development standard that will have the effect of physically precluding the construction of a development meeting the category criteria in Section 17.107.040(A) at the densities or with the concessions or incentives permitted by this Chapter. An applicant may submit a proposal for the waiver or reduction of any development standard that will have the effect of physically precluding the construction of a development meeting the category criteria in Section 17.107.040(A) at the densities, or with the concessions or incentives permitted under this Chapter. Nothing in this Section shall be interpreted to require the City to waive or reduce development standards if the waiver or reduction results in any of the following:

1. a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of California Government Code Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;

2. an adverse impact on any real property that is listed in the California Register of Historical Resources; or

3. the waiver or reduction that would be contrary to state or federal law.

B. The granting of an incentive or concession shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning change or other discretionary approval. A proposal for the waiver or reduction of development standards pursuant to this Section shall neither reduce, nor increase, the number of incentives or concessions to which the applicant is entitled.

17.107.100 Findings for denial of Incentives and Concessions.

An applicant for a density bonus may submit to the City a proposal for the specific incentives or concessions that the applicant requests; the City shall grant the concession or incentive requested by the applicant, unless the City makes a written finding, based upon substantial evidence, such as financial data, any of the following:

A. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the California Health and Safety Code, or for rents for the targeted units to be set as specified in Section 17.107.110.

B. The concession or incentive would have a specific adverse impact (as defined in Section 65589.5 (d) (2) of the California Government Code), upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-and moderate-income households.

C. The concession or incentive would be contrary to state or federal law.

17.107.110 Condition required for continued affordability.

All approvals for any affordable housing applications that include a density bonus and/or density incentive(s) or concession(s) shall be conditioned to ensure the continued affordability of the specified units for a period of not less than thirty (30) years or a longer period of time if required by the construction or mortgage financing assistance program mortgage insurance program, or rental subsidy program, and to restrict occupancy only to residents who satisfy the affordability requirement for the specified unit(s). Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code. Owner-occupied units shall be available at an affordable housing cost as defined in Section 50052.5 of the Health and Safety Code. Prior to issuance of a building permit for the affordable housing project, the applicant shall record as a deed restriction in the Alameda County Recorder's Office, notice of this requirement, in a form prescribed by the Director of City Planning.

17.107.111 Eligibility requirements.

Only those households meeting the standards for very low income, low income, moderate income or senior citizens shall be eligible to occupy target living units.

17.107.112 Density bonus resale agreement.

All buyers of for-sale target living units shall enter into a density bonus resale agreement with the city prior to purchasing the unit or property. The resale agreement shall specify that the title to the subject property or unit may not be transferred without prior approval of the city.

17.107.113 Management and monitoring.

Rental target living units shall be managed/operated by the developer or agent. Each developer of rental target living units shall submit an annual report to the city identifying which units are target living units, the monthly rent, vacancy information, monthly income for tenants of each target rental living unit throughout the prior year, and other information required by the city, while ensuring the privacy of the tenant.

17.107.114 Administrative fee for target living units.

The city shall establish an administrative fee for city monitoring of target living units, the amount to be established by the City Council, for target living units, to be paid prior to the issuance of building permit(s).

17.107.115 City's right to deny a project.

Nothing in this Chapter shall limit the city's right to deny an affordable housing or senior citizen housing project if, based on substantial evidence, the decision-making body can make any one of the findings set forth in Government Code Section 65589.5(d) presented below:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need

allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

17.107.120 Parking ratio reductions mandated by California Government Code

A. Per California Government Code, upon the request of the developer, no city shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the category criteria in Section 17.107.040(A) that exceeds the following ratios:

1. Zero to one bedroom: **one (1) onsite parking space.**

2. Two to three bedrooms: **two (2) onsite parking spaces.**

3. Four and more bedrooms: **two and one-half (2½) parking spaces.**

B. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this Section, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through on street parking.

C. This provision shall apply to a development that meets the requirements of Section 17.107.040, but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in Section 17.107.120, pursuant to Section 17.107.080.

Chapter 17.108 GENERAL HEIGHT, YARD, AND COURT REGULATIONS

Sections:

17.108.010 Height restrictions on lots abutting property in an RH, RD, or RM Zone.

17.108.020 Different maximum height in certain situations.

17.108.030 Allowed projections above height limits.

17.108.040 Reserved.

17.108.050, 17.108.060 Reserved.

17.108.070 Reserved.

17.108.080 Minimum side yard opposite living room windows.

17.108.090—17.108.110 Reserved.

17.108.120 Minimum court between opposite walls on same lot.

17.108.130 Exceptions to required openness of minimum yards and courts.

17.108.140 Fences, dense hedges, barrier, and similar freestanding walls.

17.108.150 Retaining walls.

17.108.010 Height restrictions on lots abutting property in an RH, RD, or RM Zone.

In the RU, R-80, S-1, S-2, S-3, and S-15 Zones and all Commercial and Industrial Zones, the following regulations shall apply to every lot therein which abuts any lot located in an RH, RD, or RM Zone:

A. Where Side Lot Line Is Abutting Zone Boundary. Where an interior side lot line of the former lot abuts a RH, RD, or RM Zone, no building or other facility shall, except for the projections allowed by Section 17.108.030, exceed thirty (30) feet in height unless each portion above that height is set back there from the inner line of the minimum side yard which is required by Section 17.26.140.C or 17.108.090 as applicable, or from the abutting portion of the lot line where such yard is not required, a minimum horizontal distance equal to one (1) foot for each foot by which it extends above that height.

B. Where Rear Lot Line Is Along Zone Boundary. Where the rear lot line of the former lot abuts an RH, RD, or RM Zone, no building or other facility shall, except for the projections allowed by Section 17.108.030, exceed thirty (30) feet in height unless each portion above that height is set back there from the inner line of the minimum rear yard which is required by Section 17.108.100, or is required on every lot by the applicable individual zone regulations, a minimum horizontal distance equal to one (1) foot for each foot by which it extends above that height.

(Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12376 § 3 (part), 2001: Ord. 12272 § 4 (part), 2000: Ord. 11892 § 5, 1996: prior planning code § 7070)

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, changed the title of Section 17.108.010 from "Height restrictions on lots abutting property in the R-1, R-10, R-20, R-30, R-35, R-36, R-40 or R-50 zone" to "Height restrictions on lots abutting property in an RH, RD, or RM zone." The historical notation has been preserved for reference purposes.

17.108.020 Different maximum height in certain situations.

General Height for Civic Facilities with Increased Yards. On parcels in the RH, RD, RM, RU, CN, CC, CR, HBX, M-20, S-15, OS, D-CO, and D-CE Zones that have a height limit of less than seventy-five (75) feet, a facility accommodating or serving any Civic Activity may, notwithstanding the maximum height prescribed for facilities in general in the applicable individual zone regulations, have a height of up to seventy-five (75) feet upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 if the minimum depth or width, as the case may be, of each front, side, and rear yard, if any, otherwise required is increased for such facility by one (1) foot for each foot by which the facility exceeds the aforesaid maximum height. To the extent allowed by the conditional use permit, the greater height authorized by this Subsection may be exceeded by the projections allowed by Section 17.108.030.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12376 § 3 (part), 2001: Ord. 12272 § 4 (part), 2000; Ord. 12078 § 5 (part), 1998; Ord. 11892 § 6, 1996; prior planning code § 7071)

17.108.030 Allowed projections above height limits.

The height restrictions prescribed for facilities in the applicable individual zone regulations and development control maps and in Sections 17.108.010 and 17.108.020 may be exceeded in accordance with the following table. However, facilities within required minimum yards and courts shall also be subject to the applicable provisions of Section 17.108.130.

Facilities Allowed Above the Prescribed Height	**Restrictions on Facility, or Portion Thereof, Above the Prescribed Height**		
	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	**Maximum Vertical Projection Above the Prescribed Height**	**Minimum Horizontal Distance from any Abutting Residentially Zoned Lot**

Facilities Allowed Above the Prescribed Height	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	**Maximum Vertical Projection Above the Prescribed Height**	**Minimum Horizontal Distance from any Abutting Residentially Zoned Lot**
A. Chimneys, ventilators, plumbing vent stacks, water tanks, cooling towers, machinery rooms, and other equipment and appurtenances which are not provided for elsewhere in this Section. (For screening around these, see below.)	Ten (10) percent, minus any percentage covered pursuant to Subsection B. of this Section.	Ten (10) feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134	Fifteen (15) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
B. Elevator or stair towers; penthouses, excluding those containing any living unit; stage or scenery lofts in theatres or performance venues; skylights and dormer windows located on principal and accessory Nonresidential Facilities; and rooftop fenced or walled spaces which do not qualify elsewhere in this Section.	Ten (10) percent, minus any percentage covered pursuant to Subsection A. of this Section.	Twelve (12) feet, except upon the granting of a conditional use permit.	Ten (10) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
C. Skylights, dormers and gable ends up to fifteen (15) feet in width located on principal and accessory Residential Facilities, except accessory facilities permitted in minimum yards or courts pursuant to Subsection 17.108.130.K.	Ten (10) percent, minus any percentage covered pursuant to Subsection A. of this Section.	Ten (10) feet above maximum wall height for dormers and gable ends, but in all cases, no higher than the maximum roof height; and one (1) foot for skylights, but in all cases, no higher than the maximum height of the roof section on which they are located, except that skylights on a flat roof (slope 1:12 or less) may extend one (1) foot above the roof.	Ten (10) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.

Facilities Allowed Above the Prescribed Height	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	**Maximum Vertical Projection Above the Prescribed Height**	**Minimum Horizontal Distance from any Abutting Residentially Zoned Lot**
D. Decorative features such as spires, bell towers, domes, cupolas, obelisks, and monuments.	Ten (10) percent, minus any percentage covered pursuant to Subsection A. or B. of this Section.	Fifteen (15) feet, except upon the granting of a conditional use permit.	Fifteen (15) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
E. Fire escapes, catwalks, and open railings required by law.	No restriction.	No restriction.	No restriction.
F. Rooftop recreational, observation, seating, outdoor dining, clothesline, and parking facilities, unroofed themselves except for incidental sunshades, wind-screens, and similar devices; rooftop landscaping, other than trees; and unroofed open stairs and rooftop open fencing which do not qualify elsewhere in this Section.	No restriction.	Ten (10) feet, except upon the granting of a conditional use permit.	Fifteen (15) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
G. Eaves, awnings, balconies, open stairs, and similar lateral extensions of a building, where the prescribed height is expressed as a ratio to some horizontal setback.	No restriction.	Four (4) feet in the case of Section 17.108.010 and eight (8) feet otherwise.	No restriction.

Facilities Allowed Above the Prescribed Height	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	**Maximum Vertical Projection Above the Prescribed Height**	**Minimum Horizontal Distance from any Abutting Residentially Zoned Lot**
H. Microwave and satellite dishes which are over three (3) feet in diameter and located in any Residential Zone or within one hundred fifty (150) feet from the nearest boundary of any Residential Zone, subject where applicable to the provisions of Section 17.102.240.	Ten (10) percent, minus any percentage covered pursuant to Subsection A. or B. of this Section.	Seven (7) feet, except upon the granting of a conditional use permit.	Ten (10) feet, except upon the granting of a conditional use permit.
I. Radio and television masts antennas, other than microwave and satellite dishes.	No restriction.	Fifteen (15) feet, except upon the granting of a conditional use permit.	Five (5) feet, except upon the granting of conditional use permit.
J. Trees; flagpoles; weather vanes; microwave and satellite dishes which are three (3) feet or less in diameter; and utility poles and lines.	No restriction.	No restriction.	No restriction.
K. Special Signs; and other Signs if flat against the surface of a facility authorized above.	No special restriction, but subject to the regular height and other limitations applicable to Signs.	No special restriction, but subject to the regular height and other limitations applicable to Signs.	No special restriction, but subject to the regular height and other limitations applicable to Signs.

Any conditional use permit under Subsection H. of this Section shall be subject to the same use permit criteria as are prescribed in Section 17.102.240.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12376 § 3 (part), 2001: prior planning code § 7075)

17.108.040 Reserved.

Editor's note—

Ord. No. 13112, § 4(Exh. A), adopted April 30, 2012, repealed the former Section 17.108.040, which pertained to minimum front yard in commercial and industrial zones where part of frontage on same side of block is in residential zone, and derived from the prior planning code, § 7078, and Ord. No. 13064, § 2(Exh. A), 3-15-2011.

17.108.050, 17.108.060 Reserved.

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Sections 17.108.050 and 17.108.060 in their entirety, which pertained to reduced front yard on steep slopes in residential zones and minimum side yard on street side of corner lot—Residential zones, respectively, and derived from the prior planning code, §§ 7079, 7080; Ord. No. 12376, § 3, adopted 2001; Ord. No. 12406, § 4, adopted 2002; Ord. No. 12872, § 4, adopted 2008; Ord. No. 12955, § 2(Exh. A), adopted July 21, 2009; Ord. No. 12971, § 2(Exh. A), adopted September 22, 2009, and Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010.

17.108.070 Reserved.

Editor's note—

Ord. No. 13112, § 4(Exh. A), adopted April 30, 2012, repealed the former Section 17.108.070, which pertained to the minimum side yard on street side of corner lot in commercial and industrial zones where key lots is in residential zone, and derived from the prior planning code, § 7081.

17.108.080 Minimum side yard opposite living room windows.

On each lot containing Residential Facilities with a total of two (2) or more living units, except in the case of a One-Family Dwelling with Secondary Unit, a side yard with the minimum width prescribed hereinafter shall be provided opposite any legally required window of a living room in a Residential Facility wherever such window faces any interior side lot line of such lot, other than a lot line abutting an alley, path, or public park. The side yard prescribed by this Section is not required on other lots or in other situations. Such yard shall have a minimum width of eight (8) feet, plus two (2) feet for each story at or above the level of the aforesaid window; provided, however, that such side yard width shall not be required to exceed ten percent (10%) of the lot width in the RU-3, RU-4, RU-5, R-80, CN, CC, C-40, C-45, CBD, D-LM, D-CO, S-1, S-2, S-15, and D-KP Zones and fifteen percent (15%) of the lot width in all other Zones, except that in no case shall such side yard width be less than five (5) feet. The side yard required by this Section shall be provided opposite the legally required window and opposite that portion of the wall containing such window, or of any extension of such wall on the same lot, for a distance of not less than eight (8) feet in both directions from the centerline of such legally required window, and at and above finished grade or the floor level of the lowest story

containing such a window, whichever level is higher. Such yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12971, § 2(Exh. A), 9-22-2009; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. 11892 § 7, 1996; prior planning code § 7082)

17.108.090—17.108.110 Reserved.

Editor's note—

Ord. No. 13112, § 4(Exh. A), adopted April 30, 2012, repealed the former Sections 17.108.090, 17.108.100, and 17.108.110 in their entirety, which pertained to minimum side yard abutting side of property in the RH, RD, RM, RU-1, or RU-2 zones, minimum rear yard abutting any portion of property in any residential zone, and reduced rear yard adjacent to alley, respectively, and derived from the prior planning code, §§ 7083, 7085, 7086; Ord. No. 11892, § 8, adopted 1996; Ord. No. 12272, § 4, adopted 2000; Ord. No. 12955, § 2(Exh. A), adopted July 21, 2009; Ord. No. 12971, § 2(Exh. A), adopted September 22, 2009, and Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011.

17.108.120 Minimum court between opposite walls on same lot.

On each lot containing Residential Facilities with a total of two (2) or more living units, except in the case of a One-Family Dwelling with Secondary Unit, courts with the minimum depths prescribed below shall be provided in the cases specified hereinafter between opposite exterior walls, or portions thereof, of the same or separate buildings on such lot. Courts are not required on other lots or in other situations. The aforesaid walls shall be considered to be opposite one another if a line drawn in a horizontal plane perpendicularly from any portion of any of the legally required windows referred to hereinafter, or from any point along the wall containing such window, or any extension of such wall on the same lot, on the same story as and within eight (8) feet in either direction from the centerline of said legally required window, intersects the other wall. The courts required by this Section shall be provided opposite each of the legally required windows referred to hereinafter and along the wall containing such window, and along any extension of such wall on the same lot, for not less than eight (8) feet in both directions from the center line of such legally required window, and at and above finished grade or the floor level of the lowest story containing such a window, whichever level is higher. Such courts shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130.

A. Legally Required Living Room Windows in Either or Both Walls. If either or both such opposite walls contain any legally required window of any living room in a Residential Facility, a court shall be provided between such walls with a minimum horizontal depth equal to sixteen (16) feet, plus four (4) feet for each story above the level of the aforementioned court, but shall nor be required to exceed forty (40) feet.

B. Other Legally Required Windows in Both Walls. If both such opposite walls contain legally required windows of any habitable rooms, other than living rooms, in a Residential Facility, a court shall be provided between such walls with a minimum horizontal depth of ten (10) feet.

(Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 7087)

17.108.130 Exceptions to required openness of minimum yards and courts.

Every part of each required minimum yard and court shall be open and unobstructed from finished grade, or where applicable from such other specified level at which the yard or court is required, to the sky except for the facilities allowed in the yard or court by the following table. Furthermore, in no case shall more than fifty percent (50%) of the horizontal area of any required minimum rear yard be covered by any facilities, other than trees, which extend more than six (6) feet above the level at which the rear yard is required. Wherever a yard is required only for a particular facility, it may be provided at the level of the lowest story containing such facility; provided that where such facility is a Residential Facility, such level shall be that of the lowest story, or portion thereof, containing any living unit. Where the height of facilities within minimum yards or courts is not specifically further limited by the following table, the facilities shall conform to the regular height restrictions, if any, applicable to facilities where they are located. Facilities within minimum yards and courts shall also be subject to any applicable exceptions allowed for Secondary Units in Section 17.103.080, and screening requirements or other controls prescribed by the buffering regulations in Chapter 17.110 or by the pertinent development control maps or individual zone regulations, which in some zones require that minimum front yards, or side yards on the street side of a corner lot, be landscaped.

Facilities	**Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)**				
	Front Yard	**Side Yard on Street Side of Corner Lot**	**Side Yard Along Interior Side Lot Line**	**Rear Yard (But see coverage limit in first paragraph.)**	**Court**
A. Eaves; awnings, louvers, and similar shading devices; sills, cornices, and chimneys; and similar architectural projections from a building.	Four (4) feet into above yard.	Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in Subsection K.	Two (2) feet into above yard, but may extend any distance if they meet the same provisos as stated in Subsection K.	Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in Subsection K.	Two (2) feet into court.

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	**Side Yard on Street Side of Corner Lot**	**Side Yard Along Interior Side Lot Line**	**Rear Yard (But see coverage limit in first paragraph.)**	**Court**
B. Patio roofs and similar structures projecting from and serving a Residential Facility, if such structures do not exceed twelve (12) feet in height above the finished grade of the required yard or level of the required court and if each has open, unwalled sides along not less than fifty percent (50%) of its perimeter. (If less open, see Subsection K.)	Four (4) feet into above yard.	Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in Subsection K.	Two (2) feet into above yard, but may extend any distance if they meet the same provisos as stated in Subsection K.	Any distance into above yard.	Two (2) feet into court.
C. Breezeways and similar roofed passageways projecting from and serving a Residential Facility, if they do not exceed twelve (12) feet in height above the finished grade of the required yard or level of the required court and eight (8) feet in width and if they are not enclosed on the sides. (If wider or less open, see Subsection K.)	Four (4) feet into above yard.	Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in Subsection K.	Two (2) feet into above yard, but may extend any distance if they meet the same provisos as stated in Subsection K.	Any distance into above yard.	Two (2) feet into court.
D. Bay windows, if the aggregate width of bay windows on any one story does not exceed fifty percent (50%) of the length of the wall containing them; and if no individual bay window exceeds fifteen (15) feet in width.	Three (3) feet into above yard, though not to within five (5) feet of the front lot line for One- or Two-Family Residential Facilities.	Three (3) feet into above yard, though not to within five (5) feet of the front lot line for One- or Two-Family Residential Facilities.		Five (5) feet into above yard.	

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	**Side Yard on Street Side of Corner Lot**	**Side Yard Along Interior Side Lot Line**	**Rear Yard (But see coverage limit in first paragraph.)**	**Court**
E. Balconies, decks, and similar structures projecting from and serving Residential Facility and having a height, including railings, of more than six (6) feet above the finished grade of the required yard or level of the required court, but excluding corridors and similar facilities providing access to two (2) or more living units; provided that such structures are cantilevered or supported by necessary columns; and further provided that such structures are unroofed, except that a balcony or deck projecting from a higher story shall not be deemed a roof.	Six (6) feet into above yard, though not to within five (5) feet of the front lot line for One- or Two-Family Residential Facilities.	Five (5) feet into above yard, but may extend any distance if they meet the same provisos as stated in Subsection K.	Five (5) feet into above yard, though not to within five (5) feet of interior side lot line; but may extend any distance if they meet the same provisos as stated in Subsection K.	Six (6) feet into above yard, but may extend any distance if they meet the same provisos as stated in Subsection K.	

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	**Side Yard on Street Side of Corner Lot**	**Side Yard Along Interior Side Lot Line**	**Rear Yard (But see coverage limit in first paragraph.)**	**Court**
F. Exterior access facilities which lead to the second or higher story of a building, including open or enclosed fire escapes and open, unroofed fireproof outside stairways, landings, exterior corridors, and wheelchair ramps.	Four (4) feet into above yard, but may extend any distance if they are required to accommodate wheelchair ramps or similar ADA access facilities.	Four (4) feet into above yard, but may extend any distance if they meet the same provisions as stated in Subsection K. or if they are required to accommodate wheelchair ramps or similar ADA access facilities.	Any distance into above yard if they meet the same provisions as stated in Subsection K. (not allowed otherwise).	Four (4) feet into above yard, but may extend any distance if they meet the same provisions as stated in Subsection K. or if they are required to accommodate wheelchair ramps or similar ADA access facilities.	
G. Unroofed porches, steps, decks, and wheelchair ramps, and other similar raised structures projecting from a building and having a height, including railings, of not more than six (6) feet above the finished grade of the required yard or level of the required court.	Eight (8) feet into above yard; but may extend any distance if they are required to accommodate wheelchair ramps or similar ADA access facilities.	Eight (8) feet into above yard, but may extend any distance if they meet the same provisos as stated in Subsection K. or if they are required to accommodate wheelchair ramps or similar ADA access facilities.	Eight (8) feet into above yard, but may extend any distance if they meet the same provisos as stated in Subsection K. or if they are required to accommodate wheelchair ramps or similar ADA access facilities.	Any distance into above yard.	Anywhere in court.

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	**Side Yard on Street Side of Corner Lot**	**Side Yard Along Interior Side Lot Line**	**Rear Yard (But see coverage limit in first paragraph.)**	**Court**
H. Open storage of boats, trailers, appliances, miscellaneous equipment, and similar materials, including areas for temporary storage of waste or used materials. (See also Subsection I., and O.M.C. Subsection 8.24.020.F.)			Anywhere in above yard, provided that in all Commercial and Industrial Zones, the height of such storage shall not exceed five and one-half (5½) feet within a horizontal distance of ten (10) feet from any abutting residentially zoned lot.	Anywhere in above yard, provided that in all Commercial and Industrial Zones, the height of such storage shall not exceed five and one-half (5½) feet within a horizontal distance of ten (10) feet from any abutting residentially zoned lot.	Anywhere in court.
I. Air conditioners, compressors, hot tub motors, and similar devices if emitting noise readily noticeable by the average person at or beyond the lot line, whether or not the devices are attached to a building.				Anywhere in above yard.	Anywhere in court.

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	**Side Yard on Street Side of Corner Lot**	**Side Yard Along Interior Side Lot Line**	**Rear Yard (But see coverage limit in first paragraph.)**	**Court**
J. Slides, clotheslines, and similar equipment; radio or televisions masts or antennas; microwave or satellite dishes.		Anywhere in above yards, subject where applicable to the provisions of Section 17.102.240			Anywhere in court, subject where applicable to the provisions of Section 17.102.240

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	**Side Yard on Street Side of Corner Lot**	**Side Yard Along Interior Side Lot Line**	**Rear Yard (But see coverage limit in first paragraph.)**	**Court**
K. Detached garages and sheds; detached or attached carports, parking podiums and other detached or attached accessory structures not provided for elsewhere by this Section; and portions of principal Nonresidential Facilities not provided for elsewhere nearby.		Anywhere in above yards, provided that: 1. The facility is within thirty-five (35) feet of the rear lot line; and 2. The wall height of the facility does not exceed nine (9) feet in height to the top of the plate above finished grade and the roof height, for roofs with a maximum 8 in 12 slope, does not exceed twelve (12) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues; and 3. The facility itself does not contain any residential living quarters; and 4. No building or portion thereof within the minimum yard is itself used for any commercial or manufacturing repair or production operations, unless it has no exterior openings there other than emergency exits or fixed windows or skylights or it involves an approved home occupation in the West Oakland Specific Plan Area as specified in Section 17.112.060 or an approved home occupation in the D-CE Central Estuary District zones as specified in Chapter 17.101E; and 5. The affected side yard, if any, is not one required by Section 17.102.240. But on any reversed corner lot which abuts a key lot in any Residential Zone, detached accessory buildings shall also be subject to the provisions stated in Subsection 17.110.040.C.			

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	**Side Yard on Street Side of Corner Lot**	**Side Yard Along Interior Side Lot Line**	**Rear Yard (But see coverage limit in first paragraph.)**	**Court**
L. Unroofed, raised platforms designed to accommodate off-street parking, including ramps and stairways necessary to provide access.	Anywhere in above yard except within five (5) feet of interior side lot line and except as otherwise provided in Subsection M.	Same as prescribed in Subsection K., except as otherwise provided in Subsection M.			
M. Unroofed parking and loading areas.	In any yard or court, except that in all Residential Zones and in the S-1, S-2, and S-3 Zones, no unroofed parking space which is located on any lot containing three (3) or more parking spaces, and no unroofed loading berth, shall be located within five (5) feet of the edge of pavement of any street or alley.				
N. Covered, underground or partially excavated structures, including but not limited to, garages, fallout shelters, wine cellars, and basements.	In any yard or court, provided that: 1. The surfaces of such facilities are landscaped or developed as patios or terraces; and 2. Such facilities do not extend more than thirty (30) inches above finished grade. However, these provisions shall not apply if the facilities would otherwise qualify, in the same yard, under Subsection K.				
O. Fences; dense hedges; barrier, and similar freestanding walls.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.140				
P. Trees, shrubs, and landscaping other than dense hedges with a screening effect; sculpture and similar decorations; flagpoles; unroofed patios and swimming pools; driveways; walkways and detached steps; and utility poles and lines.	In any yard or court, subject to the applicable limitations of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."				

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	**Side Yard on Street Side of Corner Lot**	**Side Yard Along Interior Side Lot Line**	**Rear Yard (But see coverage limit in first paragraph.)**	**Court**
Q. Signs.	In any yard or court, subject to the applicable limitations on Signs in Chapter 17.104				
R. Security fences (for active Code Enforcement Cases addressing blighted vacant lots and vacant buildings)	In any yard or court provided that such facilities: 1. Shall not exceed eight (8) feet; 2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections" and 3. Shall contain a minimum seventy-five percent (75%) transparency to allow visual access into the site from the public right-of-way.				
S. Living space located completely under driveway ramps	In any yard or court.				
T. Retaining walls; and earthen mounds, embankment s, and other fill.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.150				

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	**Side Yard on Street Side of Corner Lot**	**Side Yard Along Interior Side Lot Line**	**Rear Yard (But see coverage limit in first paragraph.)**	**Court**
U. Detached Secondary Units.		Anywhere in above yards, provided that: 1. The facility is within thirty-five (35) feet of the rear lot line, and is not located closer than four (4) feet from the side or rear lot line; and 2. The wall height of the facility within four (4) feet of the side or rear lot line does not exceed ten (10) feet in height to the top of the plate above finished grade. In areas greater than four (4) feet from the side or rear lot line, the wall height of the facility may only extend above ten (10) feet the extent necessary to allow gable ends, dormers, sheds, or similar roof elements (any shed roof slopes down toward the closest lot line; if equal distant to nearby lot lines, the shed roof slopes down toward the lot line facing the longest façade); and 3. The roof height, for roofs with a maximum 8 in 12 slope, does not exceed fourteen (14) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues.			

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13112, § 4(Exh. A), 4-30-2012; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12899 § 4, Exh. A, 2008; Ord. 12872 § 4 (part), 2008; Ord. 12533 § 3 (part), 2003; Ord. 12376 § 3 (part), 2001; prior planning code § 7090)

17.108.140 Fences, dense hedges, barrier, and similar freestanding walls.

A. Compliance with Oakland Traffic Code. Notwithstanding other provisions of the Oakland Planning Code, all fences, dense hedges, barrier and similar freestanding walls shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurements at Intersections".

B. Residential Zones and Residential Facilities. The provisions of this Section apply to all properties located in all Residential Zones, and to all properties located in any zone containing Residential Facilities.

1. Height. In the locations specified below, the height of any fence, dense hedge, or barrier or similar freestanding wall, but excluding retaining walls, shall not exceed the following:

a. In any minimum front yard, or any minimum side yard on the street side of a corner lot: forty-two (42) inches, except that six (6) feet is permitted in the following cases:

i. In the portions of street side yards located within the greater of the following distances, from the rear lot line:

a) Thirty-five (35) feet from the rear lot line;

b) The distance between the rear lot line and a line that is perpendicular to the street side lot line and that extends to the rearmost enclosed portion of the primary building on the lot; or

ii. Upon the granting of small project design review pursuant to the small project design review procedure in Chapter 17.136.

b. In any minimum rear yard if within ten (10) feet of a street line that abuts the lot: six (6) feet.

c. In any other minimum yard or court: eight (8) feet; and

d. One (1) entry gateway, trellis or other entry structure may be permitted in the required front setback area of each lot provided the maximum height or width of the facility does not exceed ten (10) feet.

2. Materials. The following materials are restricted in constructing or rebuilding walls or fences:

a. Barbed wire or razor wire is not allowed to be used in fences.

b. Chain link fencing is not allowed to exceed forty-two (42) inches in height in the following locations:

i. Street-fronting yards; or

ii. Interior side yards if closer to the front lot line than the front wall of the primary Residential Facility.

c. Plain concrete blocks are not allowed as a fencing material unless capped and finished with stucco or other material approved by the Director of City Planning.

C. Commercial Zones and in the OS, S-1, S-2, S-3, D-CO-1, and S-15 Zones. The provisions of this Subsection apply to all properties located in all Commercial Zones and in the OS, S-1, S-2, S-3, D-CO-1, and S-15 Zones.

1. Height.

a. The height of any fence, dense hedge, barrier or similar freestanding wall located within ten (10) feet of any abutting property located in a Residential Zone shall not exceed eight (8) feet. A fence higher than eight (8) feet but no more than ten (10) feet may only be permitted in these locations upon the granting of Small project design review pursuant to the Small project design review procedure in Chapter 17.136.

b. The maximum height of any fence, dense hedge, barrier, or similar freestanding wall elsewhere on a lot shall be ten (10) feet.

2. Restricted Materials. In any location visible from the adjacent public right-of-way, no barbed wire or razor wire shall be permitted as part of or attached to fences or walls, or attached to the exterior of any building or similar facility.

a. Exceptions. Fences enclosing the following activities shall be exempted from the above limitation on barbed wire and razor wire where the Director of City Planning determines that trespassing could present a public safety hazard and/or disruption of public utility, transportation, or communication services:

i. Public utility installations, including but not limited to electrical substations and gas substations.

ii. Rights-of-way and transit routes.

D. Industrial Zones. The provisions of this Subsection apply to all properties in all Industrial Zones.

1. Height.

a. The maximum height of any fence, dense hedge, barrier or similar freestanding wall located within ten (10) feet of any abutting property located within a Residential Zone shall be eight (8) feet. A fence higher than eight (8) feet but no more than ten (10) feet may only be permitted in these locations upon the granting of Small project design review pursuant to the Small project design review procedure in Chapter 17.136.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12553 § 3 (part), 2003)

17.108.150 Retaining walls.

A. No retaining wall shall exceed six (6) feet in height, except in the following cases:

1. Retaining walls flanking driveways that are nineteen (19) feet or less in width on lots with a street-to-setback gradient of twenty percent (20%) or more may exceed six (6) feet in height if both of the following provisos are met:

a. The garage floor is at the highest possible elevation based on the maximum driveway slopes permitted by Subsection 17.116.260.A.; and

b. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall.

2. Retaining walls not flanking driveways may also exceed six (6) feet in height upon the granting of small project design review, pursuant to the small project design review procedure in Section 17.136.030 and if both of the following provisos are met:

a. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall, and

b. The retaining wall is located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot. Whenever buildings or other permanent structures on the subject lot block most,

but not all, visibility of the retaining wall, dense landscaping shall be installed and maintained to screen the remaining views of the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.

B. Multiple retaining walls shall be separated by a distance of at least four (4) feet between the exposed faces of each wall.

C. Retaining walls visible from the street or adjacent lots shall be surfaced with a decorative material, treatment or finish, such as stained or stuccoed concrete, decorative concrete block, wood, stone or masonry, or other decorative material, treatment or finish approved by the Director of City Planning. For purposes of this Section, "visible from the street or adjacent lots" refers to any portion of a wall that is not located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.

(Ord. No. 13112, § 4(Exh. A), 4-30-2012)

Chapter 17.110 BUFFERING REGULATIONS

Sections:

17.110.010 Title, purpose, and applicability.

17.110.020 General buffering requirements—Residential and S-1, S-2, S-3, S-15, D-CO-1, and OS Zones.

17.110.030 General buffering requirements —Commercial and Industrial Zones.

17.110.040 Special buffering requirements.

17.110.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Buffering Regulations. The purpose of these regulations is to prescribe screening requirements and other controls designed to ensure an orderly relationship between neighboring developments, to enable diverse kinds of uses to be located near one another compatibly, and to improve the appearance of individual properties, neighborhoods, and the city. These regulations shall apply to the specified uses in the zones and situations indicated hereinafter.

(Prior planning code § 7100)

17.110.020 General buffering requirements—Residential and S-1, S-2, S-3, S-15, D-CO-1, and OS Zones.

The following regulations shall apply in all Residential Zones and in the S-1, S-2, S-3, S-15, D-CO-1, and OS Zones, and are in addition to the provisions set forth in Section 17.110.040:

A. Screening and Setback of Open Parking and Loading Areas. The following requirements shall apply in said zones to all open off-street parking areas located on any lot containing three (3) or more independent parking spaces, except in the case of a One-Family Dwelling with Secondary Unit, and to all open off-street loading areas on any lot:

1. Such parking and loading areas shall be screened from all lots abutting the side or rear property lines, except where a maneuvering aisle is shared with one or more abutting lots in the manner described in Section 17.116.170, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide, and/or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter.

2. Such parking and loading areas shall also be screened from all abutting streets, alleys, paths, and private streets or other ways described in Section 17.106.020, except where a driveway is located for access, by dense landscaping not less than three and one-half (3½) feet high and not less than three (3) feet wide, and/or by a decorative screening fence or wall not less than three and one-half (3½) feet high, subject to the standards for required landscaping and screening and the exceptions stated in said chapter.

3. No unroofed parking space or loading berth on such lots shall be located within five (5) feet from any street line or alley.

B. Screening of Open Storage Areas. All open storage of boats, trailers, building materials, appliances, and similar materials shall be screened from all abutting lots abutting the side or rear property lines, and streets, alleys, and paths, and private streets or other ways described in Section 17.106.020, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet high, and/or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening and the exceptions stated therein.

C. Control on Artificial Illumination of Parking and Loading Areas. Artificial illumination of all off-street parking areas located on any lot containing three or more parking spaces and all off-street parking areas, and of driveways related thereto, except in the case of a One-Family Dwelling with Secondary Unit, shall be directed away from all abutting lots and from any on-site residential living units so as to eliminate objectionable glare.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12872 § 4 (part), 2008; Ord. 12501 § 77, 2003: Ord. 12078 § 5 (part), 1998; Ord. 11892 § 9, 1996: prior planning code § 7110)

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, changed the title of Section 17.110.020 from "General buffering requirements—Residential and S-1, S-2, S-3, S-13, S-15 and OS zones" to "General buffering requirements—Residential and S-1, S-2, S-3, S-15 and OS zones." The historical notation has been preserved for reference purposes.

17.110.030 General buffering requirements —Commercial and Industrial Zones.

The following regulations shall apply in all Commercial and Industrial Zones, and are in addition to the provisions set forth in Section 17.110.040:

A. Screening Along Entire Lot Line Abutting Residential Zone If Lot in Commercial or Industrial Zone Is Occupied by Commercial, Industrial, or Agricultural or Extractive Activities. Wherever any lot which is located in any Commercial or Industrial Zone and which is occupied by Commercial, Industrial, or Agricultural or Extractive Activities abuts a lot located in any Residential Zone, it shall be screened from the residentially zoned lot, along the entire abutting lot line except where a driveway or maneuvering aisle is shared with the abutting lot in the manner described in Section 17.116.170, by dense landscaping not less than five and one-half feet (5½) high and not less than three (3) feet wide, and/or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter.

B. Screening of Open Parking, Loading, and Storage Areas. All open off-street parking areas located on any lot containing three (3) or more independent parking spaces, and all open off-street loading, storage, sales, display, service, and processing areas on any lot, shall be:

1. Screened from all abutting streets, alleys, paths, and private streets or other ways described in Section 17.106.020, by dense landscaping not less than three and

one-half (3½) feet high and not less than three (3) feet wide, and/or by a decorative screening fence or wall not less than three and one-half (3½) feet high, except where a driveway is located for access, and except in the case of sales, rental, or display areas occupied by Automotive Sales, Rental, and Delivery Commercial Activities, subject to the standards for required landscaping and screening and the exceptions stated therein; and

2. Screened from any Residential Facilities located on any lot abutting the side or rear property lines, except where a maneuvering aisle is shared with the abutting lot in the manner described in Section 17.116.170, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide, and/or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening and the exceptions stated therein; and

3. Screened from any lot abutting the side or rear property lines located in any Residential Zone, except where a maneuvering aisle is shared with the one or more abutting lots in the manner described in Section 17.116.170, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide, and/or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening and the exceptions stated therein.

C. Restrictions on Storage, Repair, and Production in Certain Required Yards. See Subsections H. and K. of Section 17.108.130.

D. Control on Artificial Illumination in Certain Situations. All artificial illumination which is readily visible from any of the Residential Facilities or residentially zoned lots referred to in Subsection B. of this Section shall be directed away from said facilities and lots so as to eliminate objectionable glare.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12872 § 4 (part), 2008; prior planning code § 7111)

17.110.040 Special buffering requirements.

A. Open Storage Areas on Same Lot as Residential Facility—Screening Required Within Three (3) Years. In all zones, on any lot which contains both a Residential Facility and any area devoted to open storage or display of goods or materials, said open storage or display area shall be screened from all abutting lots, streets, alleys, and paths, and private streets or other ways described in Section 17.106.020, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide, or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter. Existing open storage and display areas on such lots shall either be removed or provided with the above prescribed screening within three years after the effective date of the zoning regulations.

B. Screening of Open Parking, Loading, and Storage Areas in the CN, CR-1, M-20, D-CE-3, D-CO-1, and S-15 Zones. In the CN, CR-1, M-20, D-CE-3, D-CO-1, and S-15 Zones, open parking, loading, and storage areas shall be subject to the same screening and setback requirements as are set forth in Subsections A. and B. of Section 17.110.020. Existing

nonconforming storage areas in said zones shall be subject to the provisions of Section 17.114.140.

C. Location of Detached Accessory Buildings on Corner Lot Abutting a Key Lot in a Residential Zone. In all zones, on any reversed corner lot which abuts a key lot located in any Residential Zone, no detached accessory building shall be located within five (5) feet from the abutting side lot line of the key lot. No detached accessory building on such lot shall be located closer to the street line on which the key lot fronts than a distance equal to the minimum front yard depth required on the key lot, unless the accessory building is at least thirty-five (35) feet from the side lot line of the key lot. An accessory building shall be considered detached from any principal building on the same lot if the only roofed attachment thereto consists of a breezeway or similar structure exceeding neither twelve (12) feet in height nor eight (8) feet in width.

D. Other Provisions. Also applicable are the special provisions, if any, set forth in the applicable individual zone regulations and development control maps with respect to landscaping and screening and controls on parking, loading, and other specified uses; the requirements set forth in Section 17.102.140 for stables, corrals, and similar facilities; and the screening and other standards prescribed for required usable open space in the standards for required usable open space in Chapter 17.126.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 11892 § 10, 1996; prior planning code § 7115)

Chapter 17.112 HOME OCCUPATION REGULATIONS

Sections:

17.112.010 Title, purpose, and applicability.

17.112.020 Definitions.

17.112.030 Exclusions.

17.112.040 Requirements.

17.112.050 Required approval.

17.112.060 Special Regulations for Home Occupation in the West Oakland Specific Plan Area.

17.112.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the home occupation regulations. The purpose of these regulations is to prescribe the conditions under which limited nonresidential activities may be conducted when incidental to Residential Activities. Except as otherwise specified in Section 17.101E.100 for the D-CE-3 Central Estuary District Zone, these regulations shall apply to all activities of a nonresidential nature which are incidental to Residential Activities when such Nonresidential Activities would not be allowed if they were not incidental to Residential Activities. See Section 17.112.060 for home occupation regulations specific to the West Oakland Specific Plan Area and Section 17.101E.100 for home occupation regulations specific to the D-CE-3 Central Estuary District Zone.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Prior planning code § 7300)

17.112.020 Definitions.

A. Except as otherwise defined in Section 17.101E.100(B) for the D-CE-3 Central Estuary District Zone and Section 17.112.060(B) for the West Oakland Specific Plan Area, a **"home occupation"** is an accessory activity of a nonresidential nature which is performed within a living unit, or within a garage attached thereto and reserved therefor, or, for Limited Agricultural Activities and/or bee keeping, in an outdoor area on the same lot as a living unit by an occupant of the living unit and which is customarily incidental to the residential use of the living unit. A home occupation may include, but is not limited to, the handicraft manufacture of products, Limited Agricultural Activities (unless the activities include mechanized farming equipment), bee keeping (unless the activities include more than three (3) hives), the conduct of an art or profession, the offering of a service, or the conduct of a business, subject to the provisions of Sections 17.112.030, 17.112.040, and 17.112.050.

B. For the purpose of this Chapter, **Limited Agricultural Activities** include the cultivation on the premises of fruits, vegetables, plants, flowers, herbs, and/or ornamental plants intended to produce food, fibers, or other plant products for on- or off-site sale. This activity does not include the keeping, grazing, or feeding of animals, except for bee keeping involving no more than three (3) hives. Any on-site sales of agricultural products are limited to no more than four (4) times per year between the hours of 8:00 am and 9:00 pm in a temporary movable structure not exceeding two hundred (200) square feet in size.

C. For the purpose of this Chapter only, a **"bee keeping activity"** is the maintenance of honey bee colonies, commonly in hives, by one or more persons. A bee keeper keeps bees in order to collect their honey and other products that the hive produces, to pollinate crops, or to produce bees for sale to other bee keepers.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011; Prior planning code § 7301)

Editor's note—

Ord. No. 13090, § 4(Exh. A), adopted October 4, 2011, changed the title of Section 17.112.020 from "Definition of home occupation" to "Definitions." The historical notation has been preserved for reference purposes.

17.112.030 Exclusions.

The following activities shall not in any case qualify as home occupations:

A. Introductory service;

B. Teaching of organized classes totaling more than six (6) persons at a time;

C. Accommodation of more than three (3) paying guests within a One-Family Dwelling Residential Facility, or of any number of paying guests within a living unit in any other type of Residential Facility;

D. Operation of a beauty parlor with more than two (2) hair-drying machines;

E. Maintenance of a construction contractor's storage or construction yard or garage;

F. Care, treatment, or boarding of animals for profit.

G. Agricultural Activities that include the use of mechanized farm equipment.

H. Bee keeping activities that include more than three (3) hives.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; prior planning code § 7302)

17.112.040 Requirements.

A. Applicability. The home occupation regulations described below shall apply citywide except as otherwise specified in Section 17.112.060 for the West Oakland Specific Plan Area and Section 17.101E.100 for the D-CE-3 Central Estuary District Zone.

B. Location. A home occupation shall only be performed in the following locations:

1. Within a living unit by a resident thereof;

2. Within a garage that is attached to, and reserved for, a living unit; and

3. For Limited Agricultural Activities and bee keeping only, in an outdoor area on the same lot as a living unit, but only if the home occupation activity does not include the use of mechanized farming equipment or involve the keeping of more than three (3) bee hives.

C. Employees. No person other than a resident of the living unit shall be employed in the conduct of the home occupation, except that practitioners in the medical arts may employ one assistant who does not reside in the living unit.

D. Articles Sold. Articles offered for sale shall be limited to those produced on the premises, except where the home occupation serves as an agent or intermediary between off-site suppliers and off-site customers, in which case all articles, except for samples, shall be received, stored, and sold directly to customers at off-premises locations.

E. Exterior Appearance and Signs. There shall be no outside or window display of materials or products. No outside or window Sign shall advertise or otherwise identify the home occupation except for one Sign with a display surface of not more than one square foot on any face. Such Sign shall be nonmoving, and its illumination, if any, shall be indirect and nonflashing. There shall be no other exterior indication of the home occupation, and no impairment of the residential appearance of the facilities within which the home occupation is conducted.

F. Vehicular Storage. No commercial or passenger vehicle carrying any Sign advertising or otherwise identifying the home occupation shall be parked on any portion of the lot where such Sign is visible at any lot line of the lot containing the home occupation.

G. Traffic Generation. The home occupation shall not generate pedestrian or vehicular traffic substantially greater than that normally generated by Residential Activities in the surrounding area.

H. Nuisances. The home occupation shall be so conducted as not to cause offensive or objectionable noise, vibration, smoke, odors, humidity, heat, cold, glare, dust, dirt, or electrical disturbance which is perceptible by the average person at or beyond any lot line of the lot containing the home occupation.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011; Prior planning code § 7303)

17.112.050 Required approval.

No home occupation shall be permitted unless the Director of City Planning certifies that it will conform to the home occupation regulations. The Director may fix a termination date upon a home occupation in order to affect a periodic review thereof. The Director's determination shall be subject to appeal pursuant to the Administrative Appeal Procedure in Chapter 17.132.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; prior planning code § 7304)

17.112.060 Special Regulations for Home Occupation in the West Oakland Specific Plan Area.

A. Purpose and Applicability. The special home occupation regulations described below shall only apply in the West Oakland Specific Plan Area. The purpose of these regulations is to prescribe the expanded conditions under which nonresidential activities may be conducted in the West Oakland Specific Plan Area when incidental to Residential Activities. These special home occupation regulations are intended to incentivize the preservation of historic homes in West Oakland's neighborhoods, and to encourage more home-based artisan crafts in the district. The historic character-defining features of the structures must be maintained.

B. Definitions.

1. For the purpose of this section only, a **"home occupation"** is defined as an accessory activity of a nonresidential nature which is performed within a living unit, or within a

garage or accessory structure attached or detached thereto and located on the same lot as the living unit, or for Limited Agricultural Activities and/or bee keeping, in an outdoor area on the same lot as a living unit by an occupant of the living unit and which is customarily incidental to the residential use of the living unit. A home occupation may include, but is not limited to, the handicraft or custom manufacture of products, Limited Agricultural Activities (unless the activities include mechanized farming equipment), bee keeping (unless the activities include more than three (3) hives), the conduct of an art or profession, the offering of a service, or the conduct of a business, subject to the provisions of this section and Sections 17.112.030 and 17.112.050.

2. For the purpose of this section, **Limited Agricultural Activities** include the cultivation on the premises of fruits, vegetables, plants, flowers, herbs, and/or ornamental plants intended to produce food, fibers, or other plant products for on- or off-site sale. This activity does not include the keeping, grazing, or feeding of animals, except for bee keeping involving no more than three (3) hives. Any on-site sales of agricultural products are limited to no more than four (4) times per year between the hours of 8:00 am and 9:00 pm in a temporary movable structure not exceeding two hundred (200) square feet in size.

3. For the purpose of this section, a **"bee keeping activity"** is the maintenance of honey bee colonies, commonly in hives, by one or more persons. A bee keeper keeps bees in order to collect their honey and other products that the hive produces, to pollinate crops, or to produce bees for sale to other bee keepers.

C. Requirements.

1. Location. A home occupation in the West Oakland Specific Plan Area shall only be performed in the following locations:

   a. Within a living unit by a resident thereof;

   b. Within an attached or detached garage or accessory structure reserved for a living unit; and

   c. For Limited Agricultural Activities and bee keeping only, in an outdoor area on the same lot as a living unit, but only if the home occupation activity does not include the use of mechanized farming equipment or involve the keeping of more than three (3) bee hives.

2. Customers by Appointment. Professional and personal services shall only be provided by appointment except in rare and unusual circumstances. Regular walk-in clients are prohibited.

3. Nonresident Employees. One (1) nonresident employee is permitted. For the purpose of this section, the term "nonresident employee" includes an employee, business partner, co-owner, or other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation business. One (1) "nonresident employee" does not include when there are sequential employee shifts with each shift staffed by a different employee, even when only one (1) nonresident employee is at the site at any one (1) time. Only one (1) nonresident employee is permitted per residential unit, even if more than one (1) home occupation business operates at the subject unit.

4. Articles Sold. Articles offered for sale shall be limited to those produced on the premises, except where the home occupation serves as an agent or intermediary between off-site suppliers and off-site customers, in which case all articles, except for

samples, shall be received, stored, and sold directly to customers at off-premises locations.

5. Exterior Appearance and Signs. There shall be no outside or window display of materials or products. No outside or window Sign shall advertise or otherwise identify the home occupation except for one (1) Sign with a display surface of not more than one (1) square foot on any face. Such Sign shall be nonmoving, and its illumination, if any, shall be indirect and non-flashing. There shall be no other exterior indication of the home occupation, and no impairment of the residential appearance of the facilities within which the home occupation is conducted.

6. Retention of Historic Character-Defining Features. The historic character-defining features of the building shall be maintained in all home occupations.

7. Vehicular Storage. No commercial or passenger vehicle carrying any Sign advertising or otherwise identifying the home occupation shall be parked on any portion of the lot where such Sign is visible at any lot line of the lot containing the home occupation.

8. Traffic Generation. The home occupation shall not generate vehicular traffic substantially greater than that normally generated by Residential or Nonresidential Activities in the surrounding area.

9. Nuisances. The home occupation shall be so conducted as not to cause offensive or objectionable noise, vibration, smoke, odors, humidity, heat, cold, glare, dust, dirt, or electrical disturbance which is perceptible by the average person at or beyond any lot line of the lot containing the home occupation.

10. Hazards. Activities involving hazardous materials (such as fire, chemicals and/or more than three (3) machines) may require additional City permits, including but not limited to, a building permit for updated building facilities.

D. Application. For Activities involving hazardous materials, the applicant shall submit a site plan, floor plan and description of the business (including machinery used, materials and materials storage, etc.) for review by the Planning and Zoning, Building Services and Fire Departments. See the City's Basic Application for Development Review for the floor plan and site plan requirements; See also the City's Supplemental Questionnaire for Proposed Activities/Uses.

Chapter 17.114 NONCONFORMING USES

Sections:

Article I - General Provisions

Article II - Nonconforming Activities

Article III - Nonconforming Facilities

Article I General Provisions

17.114.010 Title, purpose, and applicability.

17.114.020 Definitions.

17.114.030 Effect of prior permits.

17.114.040 Right to continue nonconforming use, subject to limitations.

17.114.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Nonconforming Use Regulations. The purpose of these regulations is to control, ameliorate, or terminate uses which do not conform to the zoning regulations. These regulations shall apply to all nonconforming uses.

(Prior planning code § 7400)

17.114.020 Definitions.

As used in this Chapter:

"Alteration" means an enlargement; addition; demolition; removal; relocation; repair; remodeling; change in number of living units; development of or change in an open area; development of or change in a Sign, by painting or otherwise; or any other change in a facility, but excluding painting except as provided above for Signs, and ordinary maintenance for which no building permit is required.

"Nonconforming activity" means an activity which, under the zoning regulations, is not itself a permitted activity where it is located or does not conform to the off-street parking or loading requirements, performance standards, or other requirements applying to activities. However, an activity of the character described above shall not be deemed a nonconforming activity to the extent that it has been or is hereafter authorized by a subsisting conditional use permit, variance, or other special zoning approval.

"Nonconforming facility" means a facility which, under the zoning regulations, is not itself a permitted facility where it is located or does not conform to the density, Floor-Area Ratio (FAR), height, yard, court, buffering, landscaping or screening, or usable open space requirements; limitations on Signs; or other requirements applying to facilities. However, a facility of the character described above shall not be deemed a nonconforming facility to the extent that it has been or is hereafter authorized by a subsisting conditional use permit, variance, or other special zoning approval.

"Nonconforming use" means a nonconforming activity or a nonconforming facility.

"Substitution of activities" means the replacement of an existing activity by a new activity, or a change in the nature of an existing activity. It does not include a change of ownership, tenancy, or management where the previous line of business or other function is substantially unchanged.

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Prior planning code § 7401)

17.114.030 Effect of prior permits.

A. Fundamental Vested Rights Not Abrogated By Code Adoption or Amendment. The adoption of, or amendment to, the Planning Code (Chapter 17), including without limitation, ordinances enacted pursuant to Oakland City Charter Section 213 (Emergency Ordinances) and/or ordinances enacted pursuant Government Code Section 65858 (Urgency Measure/moratoria), shall not abrogate any fundamental vested rights established pursuant to State law, including, without limitation, those established pursuant to the prior valid adoption and execution of a development agreement under Section 17.138.015 and the development agreement procedure in Chapter 17.138. Absent the prior establishment of such vested rights, any Planning Code adoption or amendment shall apply.

B. Alcoholic Beverage Control Licenses. On premises for which a valid State of California Alcoholic Beverage Control license had been issued, and which premises had been used in the exercise of the rights and privileges conferred by the license at a time immediately prior to the effective date of the applicable provisions of Section 17.103.030, the premises may hereafter be used in the exercise of the same rights and privileges without requiring a conditional use permit or having to meet the provisions of the aforesaid section. The uses as they result that do not conform to the zoning regulations shall be deemed a nonconforming use and subject to the nonconforming use regulations, except as otherwise provided in Sections 17.114.020 and 17.114.030. For the purposes of this Subsection, the word "premises" shall mean and include only the actual space within a building devoted to the sale of alcoholic beverages on said effective date.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 7402)

17.114.040 Right to continue nonconforming use, subject to limitations.

A. **Right to Continue.** A nonconforming use which is in existence on the effective date of the zoning regulations or of any subsequent rezoning or other amendment thereto which makes such use nonconforming, and which existed lawfully under the previous zoning controls, or which is subsequently developed or changed pursuant to Section 17.114.030, may thereafter be continued and maintained indefinitely, and the rights to such use shall run with the land, except as otherwise specified in the nonconforming use regulations. However, no substitution, extension, or other change in activities and no alteration or other change in facilities is permitted except as otherwise provided in Section 17.114.030 and except as specifically provided hereinafter.

B. **Limitation on Right to Continue Nonconforming Auto and Truck-Related Activities in All Districts.** As used in regards to all such nonconforming Auto and Truck-Related Activities, the word "activity" refers solely to the unique function or operation occurring on the affected property, and does not refer to any other activity within an activity type with which that activity is grouped. Any right to substitute, extend or alter an existing auto or truck-related activity refers solely to the specific existing function or operation, and does not

provide any right to substitute, extend or alter that activity with any other type of activity within the activity type with which the activity is grouped.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12368 § 3, 2001: prior planning code § 7403)

Article II Nonconforming Activities

17.114.050 Nonconforming Activity—Discontinuance.

17.114.060 Nonconforming Activity—Damage or destruction.

17.114.070 Nonconforming Activity—Allowed substitutions and other changes in activity.

17.114.080 Nonconforming Activity—Allowed alterations and extensions.

17.114.090 Nonconforming Massage Service and Adult Entertainment Activities—Discontinuance required within one year.

17.114.100 Nonconforming Scrap Operation Commercial Activities—Discontinuance required within one year.

17.114.050 Nonconforming Activity—Discontinuance.

A. Activity Nonconforming Because It Is Not a Permitted Activity. Other than: 1) an Alcoholic Beverage Sales Commercial Activity, 2) the sale of alcoholic beverages at any full-service restaurant in a location described by Subsection 17.103.030.B, 3) an Automotive Servicing or Automotive Repair and Cleaning Activity in the D-BV Zones, or 4) Trucking and Truck-Related Industrial Activities and Recycling and Waste-Related Industrial Activities in the CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones, whenever an activity that is nonconforming wholly or partly because it is not itself a permitted activity where it is located, occupies four hundred (400) square feet or more of floor area and hereafter discontinues active operation for a continuous period of one (1) year, or occupies less than four hundred (400) square feet of floor area and hereafter discontinues active operation for a continuous period of six (6) months, and the facilities accommodating or serving such activity are not utilized for another activity during such period, said facilities may thereafter be utilized only for a normally permitted or conditionally permitted activity pursuant to Subsection 17.114.070.A., except the former activity may be resumed after a longer period upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. Whenever a nonconforming Alcoholic Beverage Sales Commercial Activity, or sale of alcoholic beverages at any full-service restaurant in a location described by Subsection 17.103.030.B, discontinues active operation for more than ninety (90) days or ceases to be licensed by the State Department of Alcoholic Beverage Control, it may only be resumed upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. However, if another activity has replaced it, the former activity may thereafter be resumed if and only if such resumption would constitute an allowable change under Subsection 17.114.070.A. Section 17.114.060 shall also apply.

C. Whenever a nonconforming Automotive Servicing or Automotive Repair and Cleaning Activity in the D-BV Zones discontinues active operation for more than six (6) months, it may only be resumed upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. However, if another activity has replaced it, the former activity may thereafter be resumed if and only if such resumption would constitute an allowable change under Subsection 17.114.070.A. Section 17.114.060 shall also apply.

D. Whenever a nonconforming Trucking and Truck-Related Industrial Activity or Recycling and Waste-Related Industrial Activity in the CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones discontinues active operation for more than ninety (90) days, it may only be resumed upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. However, if another activity has replaced it, the former activity may thereafter only be resumed if and only if such resumption would constitute an allowable change under Subsection 17.114.070.A. Section 17.114.060 shall also apply.

E. Activity Nonconforming for Other Reasons. A nonconforming activity which is itself a permitted activity where it is located, and which is nonconforming only as to applicable off-street parking or loading requirements, performance standards, or other requirements applying to activities, may be resumed regardless of the period during which it may have discontinued active operation. However, if another activity has replaced it, the former activity may thereafter be resumed only if such resumption would constitute an allowable change under Section 17.114.070B. Section 17.114.060 shall also apply.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12017 § 2, 1997; prior planning code § 7420)

17.114.060 Nonconforming Activity—Damage or destruction.

A. **Nonconforming Nonresidential Activities.** Facilities accommodating or serving a nonconforming Nonresidential Activity which are damaged or destroyed to the extent of not more than seventy-five percent (75%) may be restored to their prior condition and occupancy. If such damage or destruction exceeds seventy-five percent (75%), the facilities may thereafter only be restored to accommodate or serve the prior nonconforming activity upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. **Nonconforming Residential Activities.** Facilities accommodating or serving a nonconforming Residential Activity which are damaged or destroyed to the extent of not more than seventy-five percent (75%) may be restored to their prior condition and occupancy. If such damage or destruction exceeds seventy-five percent (75%), the facilities may thereafter only be restored to accommodate or serve the prior nonconforming Residential Activity provided all of the following conditions are met:

1. That documentation is provided which substantiates that such damage or destruction occurred involuntarily with respect to the owner of said facility or unit(s);
2. That no expansion in the number of living units occurs;
3. That plans for the proposal are approved pursuant to the design review procedure in Chapter 17.136; and
4. That a building permit is sought and obtained no later than two (2) years after the date of the facility's damage or destruction; the facility is repaired or replaced in compliance

with the building code; and construction pursuant thereto is diligently pursued to completion.

If all of the preceding requirements are not met, the replacement or restoration of such facilities may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11861 § 7, 1996: prior planning code § 7421)

17.114.070 Nonconforming Activity—Allowed substitutions and other changes in activity.

A. **Activity Nonconforming Because It Is Not a Permitted Activity.** The activities specified in the following table may be substituted for any of the indicated activities which is nonconforming wholly or partly because it is not itself a permitted activity where it is located:

Zone	Prior Nonconforming Activity	Activity Which May be Substituted for Prior Activity, Subject to the Provisions Listed Below This Table
Any zone.	Any such activity.	Any activity otherwise permitted or, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, any activity otherwise conditionally permitted in the same location.
Any Residential Zone or S-1, S-2, or S-3 Zone.	Any such Industrial Activity where it is not a permitted or conditionally permitted activity.	Any Activity permitted in the CN-4 Zone.
	The following such Commercial Activities where they are not a permitted or conditionally permitted activity:	
	Research Service	(see below)
	General Wholesale Sales	(see below)
	Building Material Sales	(see below)
	Automobile and Other Light Vehicle Sales and Rental	(see below)
	Automotive and Other Light Vehicle Repair and Cleaning	(see below)
	Taxi and Light Fleet-Based Service	(see below)
	Animal Care	(see below)
	Animal Boarding	(see below)
	Undertaking Service	(see below)

Zone	Prior Nonconforming Activity	Activity Which May be Substituted for Prior Activity, Subject to the Provisions Listed Below This Table
	Scrap Operation	(see below)
		Any Activity permitted in the CC-2 Zone.
	The following such Commercial Activities where they are not a permitted or conditionally permitted activity:	
	General Food Sales	(see below)
	Full Service Restaurant	(see below)
	Limited Service Restaurant and Cafe	(see below)
	Fast-Food Restaurant	(see below)
	Convenience Market	(see below)
	Alcoholic Beverage Sales	(see below)
	Mechanical or Electronic Games	(see below)
	General Retail Sales	(see below)
	Consumer Service	(see below)
	Consumer Cleaning and Repair Service	(see below)
	Consumer Dry Cleaning Plant	(see below)
	Group Assembly	(see below)
	Personal Instruction and Improvement Services	(see below)
	Business, Communication, and Media Service	(see below)
	Broadcasting and Recording Service	(see below)
		Any Commercial Activity permitted in the CN-4 Zone.
	The following such Commercial Activities where they are not a permitted or conditionally permitted activities:	
	Medical Service	(see below)
	Consultative and Financial	(see below)

Zone	Prior Nonconforming Activity	Activity Which May be Substituted for Prior Activity, Subject to the Provisions Listed Below This Table
	Service	
	Administrative	(see below)
		Administrative Civic Activities. Administrative Commercial Activities. Medical Service. Consultative and Financial Service.
	Any other Commercial Activity where it is not a permitted or conditionally permitted activity.	Any Commercial Activity permitted in the CC-2 Zone.
Any Commercial Zone.	Any Industrial Activity where it is not a permitted or conditionally permitted activity.	Any Commercial Activity permitted in the CC-2 Zone.
Any Industrial Zone.	Any such Commercial Activity where it is not a permitted or conditionally permitted activity.	Any Commercial Activity permitted in the CC-2 Zone.

Changes that do not constitute substitutions may be made in any activity which is nonconforming wholly or partly because it is not itself a permitted activity where it is located. The above substitutions and other changes may be made without regard for requirements on off-street parking and loading, conduct of activities within enclosed buildings, means of customer access, and total floor area which normally apply to activities, except as otherwise provided in Section 17.116.020C. However:

1. If the nonconforming activity is itself conditionally permitted where it is located, no substitution or other change shall be made in it which would conflict with, or further conflict with, any requirement on off-street parking or loading, conduct of activities within enclosed buildings, means of customer access, or total floor area which normally applies to activities. (Changes which are allowed by Section 17.116.020B shall not be deemed to conflict or further conflict with the parking or loading requirements).
2. Conversions of dwelling units to use by a Nonresidential Activity shall be subject, where applicable, to the provisions of Section 17.102.230
3. If the nonconforming activity is located at ground level on any lot in the CN-1 or CN-2 Zone, no change shall be made in the nature of the particular activity, except when the result is itself permitted in the same location, unless a conditional use permit is granted pursuant to the conditional use permit procedure. This does not restrict a change in ownership, tenancy, or management where the previous line of business or other function is not changed.
4. For any nonconforming Alcoholic Beverage Sales Commercial Activity presently located in any zone in which it is not a permitted activity, no change shall be made in the activity which change requires obtaining a different type of alcoholic beverage sale retail license from the state of California Department of Alcoholic Beverage Control.

Further, no change shall be made in any nonconforming activity involving the sale of alcoholic beverages at a full service restaurant in any location described by Section 17.103.030.B.2, which change requires obtaining a different type of alcoholic beverage sale retail license from the state of California Department of Alcoholic Beverage Control, unless a conditional use permit is granted pursuant to the conditional use permit procedure in Chapter 17.134.

5. No substitution or other change shall be made in any nonconforming activity which would conflict, or further conflict, with any applicable provision of the performance standards in Chapter 17.120, or of any kind of requirement not mentioned hereinabove which applies to activities.

6. In cases of discontinuance, damage, or destruction, the pertinent provisions of Sections 17.114.050 or 17.114.060 shall also apply.

If the activity resulting from a change allowed above is not a normally permitted and otherwise conforming activity, and is not authorized by a conditional use permit or other special zoning approval, it shall be deemed a nonconforming activity and changes in it shall be subject to this Section.

B. **Activity Nonconforming for Other Reasons.** Except as otherwise provided in Sections 17.114.050 and 17.114.060, an activity which is itself permitted or, upon the granting of a conditional use permit pursuant to the conditional use permit procedure, an activity which is itself conditionally permitted may be substituted for any activity which is itself a permitted activity where it is located and which is nonconforming only as to applicable off-street parking or loading requirements, performance standards, or other requirements applying to activities. Changes other than substitutions may also be made in such activities. However, no substitution or other change shall be made which would create any new nonconformity, or increase any existing nonconforming, with respect to said requirements. (Changes which are allowed by Section 17.116.020.B shall not be deemed to conflict or further conflict with the parking or loading requirements.) If the activity resulting from the change does not meet such requirements, and is not authorized by a conditional use permit or other special zoning approval, it shall be deemed nonconforming and changes in it shall be subject to this Subsection.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12289 § 4 (part), 2000; Ord. 12016 § 2 (part), 1997; prior planning code § 7422)

17.114.080 Nonconforming Activity—Allowed alterations and extensions.

A. **Nonresidential Activity Nonconforming Because It Is Not a Permitted Activity.** Except as otherwise provided in Section 17.114.060, a Nonresidential Activity which is nonconforming wholly or partly because it is not itself a permitted activity where it is located may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed, subject to the requirements normally applying to uses where the activity is located and subject to the following provisions and exceptions:

1. Except as otherwise provided in Subsection (A)(3) of this Section, the floor area and overall outside dimensions of any building, or portion thereof, devoted to such activity shall not be increased; no open parking, loading, sales, display, service, production, or storage area accommodating or serving such activity shall be relocated or increased in size; and no such building or open area shall be wholly reconstructed. However, in the

case of an establishment classified as an Alcoholic Beverage Sales Commercial Activity, the total floor area, open areas, or outside building dimensions occupied by the establishment may be increased as long as the amount of space actually devoted to the sale of alcoholic beverages is not increased by more than twenty percent (20%) of that already existing. See Tables 17.15.01 (L4), 17.17.01 (L4), and 17.19.01 (L7) for restrictions to this allowable expansion in the RD, RM, and RU Zones.

2. In the case of an establishment classified as an Alcoholic Beverage Sales Commercial Activity, the percentage of actual floor area devoted to the sale of alcoholic beverages shall not be increased by more than twenty percent (20%) of that already existing, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

3. New, wholly reconstructed, enlarged, or relocated structures or open areas devoted to off-street parking or loading serving such activity may be provided wherever Automotive Fee Parking Commercial Activities are permitted or, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, wherever Automotive Fee Parking Commercial Activities are conditionally permitted. In Residential Zones, such facilities for off-street parking may be provided in the situations, and subject to the conditions, prescribed in Section 17.116.075.

4. New Signs may be provided for such activity, but the aggregate area of display surface of all Signs serving such activity shall not be increased. All Signs shall be subject to the limitations, other than aggregate area of display surface, normally applying to Signs where they are located.

5. During any five-year period, beginning on or after the effective date of the zoning regulations or of any subsequent rezoning or other amendment thereto which makes such activity thus nonconforming, the aggregate cost of all alterations for which a building or sign permit is required, and which are intended for any activity subject to this Subsection, shall not exceed twenty-five percent (25%) of the replacement cost, as estimated by the Building Services Department, of the facilities accommodating or serving such activity at the beginning of said period. However, the cost of alterations ordered by any governmental agency or permitted by Section 17.114.060 shall be exempt from said maximum cost.

6. No facility accommodating a nonconforming Automobile and Other Light Vehicle Gas Station and Servicing or Automotive and Other Light Vehicle Repair and Cleaning Commercial Activity shall be altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136.

7. A nonconforming Automobile and Other Light Vehicle Gas Station and Servicing or Automotive and Other Light Vehicle 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 in Chapter 17.136. This conditional use permit and 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.

B. **Residential Activity Nonconforming Because It Is Not a Permitted Activity.** Except as otherwise provided in Section 17.114.060, a Residential Activity which is nonconforming wholly or partly because it is not itself a permitted activity where it is located may be

extended, and the facilities accommodating or serving such activity may be altered or otherwise changed, subject to the following provisions:

1. The number of living units shall not be increased.
2. The amount of added or wholly reconstructed floor area devoted to such activity shall not exceed in the aggregate twenty percent (20%) of that already existing on the affected lot. If a new or wholly reconstructed floor area is developed, usable open space shall be provided for all living units on the lot in the amount required in the RU-2 Zone.
3. Existing usable open space shall not be reduced below, or if already less than shall not be reduced further below, the usable open space requirements applying in the RU-2 Zone.
4. All alterations and other changes shall conform to, or not further conflict with, the minimum yard and court and maximum height requirements and the limitations on Signs generally applying in the RM-3 Zone, as well as to the requirements generally applying to uses where the activity is actually located.

C. **Activity Nonconforming for Other Reasons.** Except as otherwise provided in Section 17.114.060, any activity which is itself a permitted activity where it is located and which is nonconforming only as to off-street parking or loading requirements, performance standards, or other requirements applying to activities may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed, in any way which does not result in a greater degree of nonconformity with respect to such requirements and which conforms to the requirements normally applying to uses where the activity is located.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12772 § 1 (part), 2006; Ord. 12240 § 8, 2000; prior planning code § 7423)

17.114.090 Nonconforming Massage Service and Adult Entertainment Activities—Discontinuance required within one year.

Within one (1) year after the effective dates of Sections 17.102.160, 17.102.170 and 17.148.050, all previously legal but now nonconforming Adult Entertainment and Massage Service Activities shall be discontinued or shall be brought into full conformance with said sections except that such activities may continue for up to an additional two (2) years upon the granting of a conditional use permit, pursuant to Section 17.102.160B and the conditional use permit procedure in Chapter 17.134, and upon a determination that the activity is obligated under a written lease at the nonconforming location which exceeds one (1) year from the effective dates of Sections 17.102.160, 17.102.170 and 17.148.050 or that the activity has incurred such an investment of money in leasehold or other improvements such that a longer period is necessary to prevent undue financial hardship.

(Prior planning code § 7425)

17.114.100 Nonconforming Scrap Operation Commercial Activities—Discontinuance required within one year.

Within one (1) year after the effective date of this Section or of any subsequent rezoning which makes an existing Scrap Operation Commercial Activity a nonconforming activity, all nonconforming Scrap Operation Commercial Activities located within a Residential Zone or within one hundred (100) feet of a Residential Zone and which wholly or partially occupy an open facility shall be discontinued or may continue only upon the granting of a conditional use permit, pursuant to the conditional use permit procedure in Chapter 17.134; provided, however, that if the proposal does not conform to the use permit criteria at Section 17.134.050, but as an alternative a finding is made that the activity involves investment of money in leasehold or improvements such that a longer period is necessary to prevent undue financial hardship, then a conditional use permit shall be granted for a period not to exceed two (2) additional years.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 7426)

Article III Nonconforming Facilities

17.114.110 Nonconforming Facility—Allowed alterations.

17.114.120 Nonconforming Facility—Damage or destruction.

17.114.130 Nonconforming open storage on same lot as Residential Facility—Screening required within three years.

17.114.140 Nonconforming open storage in the CN, CR-1, CIX-1A, CIX-1B, CIX-1C, CIX-1D, and M-20 Zones—Screening required within three (3) years.

17.114.150 Nonconforming Sign within 1,000 feet of, and primarily viewable from, rapid transit route—Removal required for certain categories.

17.114.170 Nonconforming Signs in CN-1 Zone—Removal required.

17.114.180 Nonconforming Signs in CR-1 Zone—Removal required for certain categories.

17.114.110 Nonconforming Facility—Allowed alterations.

A. **When Occupied by Conforming Activity.** Except as otherwise provided in Section 17.114.120, a nonconforming facility which accommodates or serves a conforming activity may be altered or otherwise changed, and the lot lines of the lot containing it may be changed, in any way which does not create any new nonconformity or increase the degree of any existing nonconforming with respect to any requirement applying to facilities. Any new, relocated, or wholly reconstructed part of a facility shall itself conform to all applicable such requirements. Nonconforming Residential Facilities containing a total of more than one living unit on a lot, when located in a zone where only one living unit is permitted on a lot, shall be subject to the requirements generally applying in the RU-2 Zone with respect to side yards opposite living room windows; courts; and usable open space. Nonconforming Nonresidential Facilities which are not themselves permitted facility types in the zone where

they are located shall not be increased in floor area or overall outside dimensions; relocated, except to remove a nonconformity; or wholly reconstructed.

B. **When Occupied by Nonconforming Activity.** Except as otherwise provided in Section 17.114.120, a nonconforming facility which accommodates or serves a nonconforming activity may be altered or otherwise changed, and the lot lines of the lot containing it may be changed, subject to the conditions of Section 17.114.080 as well as those of Subsection A. of this Section. In such a case, new Signs of a type not otherwise permitted may be developed as authorized by Subsections A. and B. of Section 17.114.080

C. **Conversion from Advertising Sign in the CN, CR-1, or S-15 Zones**. No nonconforming Advertising Sign in the CN, CR-1, or S-15 Zones shall be converted, by change of copy or otherwise, to any other type of Sign unless the entire Sign as converted meets all the requirements of said zone for a new Sign, including design review approval.

D. **Conversion from Advertising Sign Within One Thousand (1,000) Feet of, and Primarily Viewable from, Rapid Transit Route.** No Advertising Sign shall be converted, to any other type of Sign unless the Sign as converted is approved, in a content-neutral manner, pursuant to the design review procedure in Chapter 17.136 and the provisions of Section 17.104.040A.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12146 § 2, 1999; Ord. 12073 § 2, 1998: Ord. 11892 § 11, 1996; prior planning code § 7430)

17.114.120 Nonconforming Facility—Damage or destruction.

A. **Nonconforming Nonresidential Facilities.** Nonconforming nonresidential facilities which are damaged or destroyed to the extent of not more than seventy-five percent (75%) may be restored to their prior condition and occupancy. If such damage or destruction exceeds seventy-five percent (75%), the facilities may thereafter be restored to their prior condition upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. **Nonconforming Residential Facilities.** Nonconforming Residential Facilities which are damaged or destroyed to the extent of not more than seventy-five percent (75%) may be restored to their prior condition. If such damage or destruction exceeds seventy-five percent (75%), the facilities may thereafter be restored to their prior condition provided all of the following conditions are met:

1. That documentation is provided which substantiates that such damage or destruction occurred involuntarily with respect to the owner of said facility or unit(s);
2. That no expansion in the number of living units occurs;
3. That plans for the proposal are approved pursuant to the design review procedure in Chapter 17.136; and
4. That a building permit is sought and obtained no later than two (2) years after the date of the facility's damage or destruction; the facility is repaired or replaced in compliance with the building code; and construction pursuant thereto is diligently pursued to completion.

If all of the preceding requirements are not met, the replacement or restoration of such facilities may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; prior planning code § 7431)

17.114.130 Nonconforming open storage on same lot as Residential Facility—Screening required within three years.

On any lot containing a Residential Facility, any open area which is devoted to storage or display of goods or materials shall, within three (3) years after the effective date of the zoning regulations, be either removed or made to conform to the applicable screening requirements of Section 17.110.040A.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 7432)

17.114.140 Nonconforming open storage in the CN, CR-1, CIX-1A, CIX-1B, CIX-1C, CIX-1D, and M-20 Zones—Screening required within three (3) years.

In the CN, CR-1, CIX-1A, CIX-1B, CIX-1C, CIX-1D, and M-20 Zones, all open storage areas shall, within three (3) years after inclusion in said zones, be either removed or made to conform to the screening requirements of Section 17.110.040.B.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 7433)

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, changed the title of Section 17.114.140 from "Nonconforming open storage in C-5, C-25, C-27, C-31, C-36, M-10 and M-20 zones—Screening required within three years" to "Nonconforming open storage in CN, CR-1 and M-20 zones—Screening required within three years." The historical notation has been preserved for reference purposes.

17.114.150 Nonconforming Sign within 1,000 feet of, and primarily viewable from, rapid transit route—Removal required for certain categories.

A. **Basic Requirements.** Within the indicated time periods, and except as otherwise provided in Subsection B. of this Section, all nonconforming Signs in the following categories which are located within one thousand (1,000) feet of the centerline of a rapid transit route shall be removed, relocated, or otherwise changed so as to conform:

Category	Time Period
Any Business which is painted, or consists of a poster affixed, directly on a building wall or fence; for which design review is prescribed by Section 17.104.040A; and which is or has become primarily viewable by the passengers on the transit route.	Three (3) years after the effective date of Section 17.104.040 (that date was April 8, 1971) or three (3) years after the date of official determination of the transit route, whichever occurs later.

The Director of City Planning shall determine which Signs are or have become so viewable, subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

B. **Exception.** Any Sign listed in Subsection A. of this Section may be retained permanently if it is approved pursuant to the design review procedures in Chapter 17.136 and the provisions of Section 17.104.040.A.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12073 § 3, 1998: prior planning code § 7434)

17.114.160 Reserved.

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, repealed the former Section 17.114.160 in its entirety, which pertained to nonconforming signs in S-8 zone—Removal required for certain categories and derived from the prior planning code, § 7435, and Ord. No. 12073, § 4, adopted 1998.

17.114.170 Nonconforming Signs in CN-1 Zone—Removal required.

A. Basic Requirements. Within the time periods indicated below for the specified categories, and except as otherwise provided in Subsection B. of this Section, all nonconforming Signs shall be removed, relocated, or otherwise changed so as to conform. See also Section 17.114.110.C.

Category	Time Period
Any pennants, streamers, propellers, and similar devices.	One (1) year after inclusion in the CN-1 zone.
Any other Sign which is nonconforming with respect to any provision of Section 17.148.110	Three (3) years after inclusion in the CN-1 zone.

The Director's determination shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12073 § 5, 1998; prior planning code § 7436)

17.114.180 Nonconforming Signs in CR-1 Zone—Removal required for certain categories.

Within three (3) years after inclusion in the CR-1 Zone, all nonconforming pennants, streamers, propellers, and similar devices shall be removed, relocated, or otherwise changed so as to conform.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12073 § 6, 1998: prior planning code § 7437)

Chapter 17.116 OFF-STREET PARKING AND LOADING REQUIREMENTS

Sections:

Article I - General Provisions

Article II - Off-Street Parking Requirements

Article III - Off-Street Loading Requirements

Article IV - Standards for Required Parking and Loading Facilities

Article I General Provisions

17.116.010 Title, purpose, and applicability.

17.116.020 Effect on new and existing uses.

17.116.030 More than one activity on a lot.

17.116.040 Determination by Director of City Planning.

17.116.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Off-street Parking and Loading Requirements. The purpose of these regulations is to require adequate off-street parking and loading, thereby reducing traffic congestion, allowing more efficient utilization of on-street parking, promoting more efficient loading operations, and reducing the use of public streets for loading purposes. Except as may otherwise be specified in Chapter 17.101E for the D-CE Zones, these requirements shall apply to the indicated activities as specified hereinafter. See Chapter 17.101E Central Estuary District Zones Regulations for parking regulations specific to Boat and Marine-Related Sales, Rental, Repair and Servicing for the D-CE Central Estuary District Zones.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Prior planning code § 7500)

17.116.020 Effect on new and existing uses.

(See illustrations I-19a, b.)

A. **New Parking and Loading to Be Provided for New Facilities and Additions to Existing Facilities.** Except as otherwise provided in Sections 17.114.030 and Chapter 17.138, new off-street parking and loading as prescribed hereafter shall be provided for activities occupying facilities, or portions thereof, which are constructed, established, wholly reconstructed, or moved onto a new lot after the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto establishing or increasing parking or loading requirements for such activities, except to the extent that existing parking or loading exceeds such requirements for any existing facilities. The required amount of new parking and loading shall be based on the cumulative increase in floor area, or other applicable unit of measurement prescribed hereafter, after said effective date; provided, however, that for an activity occupying a facility existing on

said effective date, new parking shall be required for said increase to the extent that the total of such existing facility and the added facilities exceeds any minimum size hereafter prescribed for which any parking is required for such activity.

B. **New Parking to Be Provided for New Living Units in Existing Facilities.** Except as provided in Sections 17.116.110(D)(3) for the conversion of historic buildings in the D-BV and D-LM Zones, if any facility, or portion thereof, which is in existence on the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto establishing or increasing parking or loading requirements for an activity therein, is altered or changed in occupancy so as to result in an increase in the number of residential living units therein, new off-street parking as prescribed hereafter shall be provided for the added units. However, such new parking need be provided only in the amount by which the requirement prescribed hereafter for the facility after said alteration or change exceeds the requirement prescribed hereafter for the facility as it existed prior to such alteration or change; and such new parking need not be provided to the extent that existing parking exceeds the latter requirement. Other alterations and substitutions or other changes in activities may be made in any facility or portion thereof existing on said date without regard for the parking and loading requirements prescribed hereafter, and new parking and loading shall not be required therefor, except as otherwise provided in Subsection A. of this Section with respect to additions and in Subsection C. of this Section.

C. **Existing Parking and Loading to Be Maintained.** No existing parking or loading serving any activity shall be reduced in amount or changed in design, location, or maintenance below, or if already less than shall not be reduced further below, the requirements prescribed hereafter for such activity unless equivalent substitute facilities are provided.

D. **Parking to be Provided for Existing Residential Facilities.** When a conditional use permit is required by Section 17.102.300 for the alteration of, or addition to, an existing Residential Facility in order to create a total of five (5) or more bedrooms in any dwelling unit, the off-street parking requirement of Section 17.102.300.C shall apply to the entire facility, including the existing facility and any alteration or addition.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 7501)

17.116.030 More than one activity on a lot.

(See illustrations I-20a, b.) Whenever a single lot contains different activities with the same off-street parking or loading requirement, the overall requirement shall be based on the sum of all such activities, and the minimum size prescribed hereafter for which any parking or loading is required shall be deemed to be exceeded for all such activities if it is exceeded by their sum. Whenever a single lot contains activities with different off-street parking or loading requirements, the overall requirement shall be the sum of the requirements for each such activity calculated separately; provided, however, that the minimum size prescribed hereafter for which any parking is required shall be deemed to be exceeded on said lot for all activities for which the same or a smaller minimum size, expressed in the same unit of measurement, is prescribed, if said minimum size is exceeded by the sum of all such activities on the lot.

(Prior planning code § 7503)

17.116.040 Determination by Director of City Planning.

In the case of activities for which the Director of City Planning is required to prescribe a number of parking spaces or loading berths, he or she shall base his or her determination on the traffic generation of the activities, the amount and frequency of loading operations thereof, the time of operation of the activities, their location, and such other factors as affect the need for off-street parking or loading. Any such determination shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

(Prior planning code § 7509)

Article II Off-Street Parking Requirements

17.116.050 Calculation rules.

17.116.060 Off-street parking—Residential Activities.

17.116.070 Off-street parking—Civic Activities.

17.116.080 Off-street parking—Commercial Activities.

17.116.082 Off-street parking in the D-BV Zones—Commercial Activities.

17.116.090 Off-street parking—Industrial Activities.

17.116.100 Off-street parking—Agricultural and Extractive Activities.

17.116.110 Special exemptions to parking requirements.

17.116.050 Calculation rules.

If after calculating the number of required off-street parking spaces a quotient is obtained containing a fraction of one-half or more, an additional space shall be required; if such fraction is less than one-half it may be disregarded. When the parking requirement is based on number of employees, the number of spaces shall be based on the number of working persons typically engaging in the specified activity on the lot during the largest shift of the peak season. When the requirement is based on number of doctors, the number of spaces shall be based on the number of such doctors typically engaging in the activity on the lot during the peak daily period. When the requirement is based on number of seats, each twenty (20) inches of pews or similar facilities shall be counted as one seat.

(Prior planning code § 7510)

17.116.060 Off-street parking—Residential Activities.

A. **Permanent and Semi-Transient Residential Activities.** Except as otherwise provided in Section 17.44.200, Chapter 17.94, Sections 17.102.300, 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for all Permanent and Semi-Transient Residential Activities when located in the indicated zones and occupying the specified

facilities and shall be developed and maintained pursuant to the provisions of Article IV of this Chapter:

Residential Facility Type	Zone	Requirement
One-Family Dwelling.	RH and RD Zones, except when combined with the S-12 Zone.	Two (2) spaces for each dwelling unit; however, when combined with the S-11 Zone, the requirement shall be one (1) space per bedroom with a minimum of two (2) spaces per dwelling unit and a maximum requirement of four (4) spaces per dwelling unit.
	RM-1 Zone, except when combined with the S-12 Zone.	One and one-half (1½) spaces for each dwelling unit.
	RM-2 Zone, except when combined with the S-12 Zone.	a) One (1) space for each dwelling unit when lot is less than 4,000 square feet in size and/or 45 feet in width; or b) One (1) space for each dwelling unit, regardless of lot size or width, when lot is located in the West Oakland District only, as specified in Table 17.17.03, Note 17; or c) One and one-half (1½) spaces for each dwelling unit when lot is 4,000 square feet or more in size and/or 45 feet in width, except when located in the West Oakland District (see Requirement b. above).
	CBD-P Zone (when combined with the S-7 Zone), except when combined with the S-12 Zone.	No spaces required.
	S-15 Zones, except when combined with the S-12 Zone.	One-half (½)-space for dwelling unit.
	Any other zone, except when combined with the S-12 Zone.	One (1) space for each dwelling unit.
	Any zone combined with the S-12 Zone.	See Section 17.94.040.

Residential Facility Type	Zone	Requirement
One-Family Dwelling with Secondary Unit.	RH, RD, RM-1, and RM-2 Zones, except when combined with the S-12 Zone.	One (1) space for the Secondary Unit unless the lot already contains a total of at least three (3) spaces or is located near transit pursuant to Section 17.103.080; however, when combined with the S-11 Zone, the requirement shall be one (1) space for each bedroom in any Secondary Unit, up to a maximum requirement of two (2) spaces per Secondary Unit. See Section 17.103.080.
	D-LM Zones, except when combined with the S-12 Zone.	No additional space required for the Secondary Unit.
	All other zones, except when combined with the S-12 Zone.	One (1) space for the Secondary Unit unless the lot already contains a total of at least two (2) spaces or is located near transit pursuant to Section 17.103.080; however, when combined with the S-11 Zone, the requirement shall be one (1) space for each bedroom in any Secondary Unit, up to a maximum requirement of two (2) spaces per Secondary Unit. See Section 17.103.080.
	Any zone combined with the S-12 Zone.	See Section 17.94.040.
Two-Family Dwelling. Multifamily Dwelling.	RD-2, RM-1, RM-2 Zone, except when combined with the S-12 Zone.	One and one-half (1½) spaces for each dwelling unit; however, for the RM-2 Zone in the West Oakland District only (defined for the purposes of this Chapter as all areas between Interstate 980 to the east, Interstate 880 to the south and west, and Interstate 580 to the north), the minimum parking requirement shall be only one (1) space for each dwelling unit.
	CBD-P Zone (when combined with the S-7 zone), except when combined with the S-12 Zone.	No spaces required.
	S-15 and D-CO Zones, except when combined with the S-12 Zone.	One-half (½) space for each dwelling unit.
	D-BV-1 and D-BV-2 Zones, except when combined with the S-12 Zone.	One-half (½) space for each dwelling unit. See Section 17.116.110 for further regulations, including but not limited to, unbundling of parking and allowances for an in-lieu fee.

Residential Facility Type	Zone	Requirement
	D-BV-3, D-BV-4 and D-LM Zones, except when combined with the S-12 Zone.	Three-quarters (3/4) space for each dwelling unit. See Section 17.116.110 for further regulations, including but not limited to, unbundling of parking and allowances for an in-lieu fee.
	Any other zone, except when combined with the S-12 Zone.	One (1) space for each dwelling unit.
	Any zone combined with the S-12 Zone.	See Section 17.94.040.
Rooming House.	CBD-P Zone (when combined with the S-7 Zone).	No spaces required.
	D-BV-1, D-BV-2, and D-LM Zones.	One (1) space for each four (4) rooming units.
	Any other zone.	One (1) space for each two (2) rooming units.
Mobile Home.	CBD-P Zone (when combined with the S-7 Zone).	No spaces required.
	Any other zone.	One (1) space for each living unit plus one (1) additional space for each four living units.
Bed and Breakfast	D-LM Zones.	Required parking for a One-Family dwelling in the underlying zone only.
	Any other zone.	One (1) space for each two (2) units, plus the required parking for a One-Family dwelling in the underlying zone.

B. **Residential Care and Emergency Shelter Residential Activities**. Except as otherwise provided in Section 17.44.200, Chapter 17.94, Sections 17.102.300, 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for all Residential Care and Emergency Shelter Residential Activities when located in any zone and occupying the specified facilities and/or having the specified number of employees and/or facility vehicles, and shall be developed and maintained pursuant to the provisions of Article IV of this Chapter.

Residential Activity	Requirement
Residential Care.	One (1) space for each three (3) employees on site during the shift that has maximum staffing, and one (1) space for each facility vehicle. Where more than three (3) spaces are required for a single housekeeping unit, additional spaces beyond three may be provided

	in tandem.
Emergency Shelter.	One (1) space for each three (3) employees on site during the shift that has maximum staffing, plus one (1) space for each facility vehicle.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12971, § 2(Exh. A), 9-22-2009; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12501 § 78, 2003: Ord. 12406 § 4 (part), 2002; Ord. 12376 § 3 (part), 2001; Ord. 12272 § 4 (part), 2000; Ord. 12199 § 8 (part), 2000; Ord. 12138 § 4 (part), 1999; Ord. 11892 § 12, 1996: prior planning code § 7511)

17.116.070 Off-street parking—Civic Activities.

Except as otherwise provided in Sections 17.44.200, 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for the specified Civic Activities when located in the indicated zones and occupying facilities of the specified sizes or having the indicated numbers of employees or doctors, and shall be developed and maintained pursuant to the provisions of Article IV of this Chapter: (See illustration I-18.)

Civic Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
A. Essential Service. Limited Childcare.	S-15 and D-CO Zones.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040.
	Any other zone.	—	No spaces required.
B. Community Assembly and Recreational Assembly: playgrounds and playing fields; concessions located in public parks; temporary nonprofit festivals.	CBD-P Zone (when combined with the S-7 Zone).	—	No spaces required.
	S-15 and D-CO Zones.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040.
	Any other zone.	No minimum.	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040.
Private non-profit clubs and lodges.	S-15 and D-CO Zones.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040.

Civic Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
	Any other zone.	—	No spaces required.
Churches and all other.	CBD-P Zone (when combined with the S-7 Zone).	—	No spaces required.
	C-45, CBD-P (except when combined with the S-7 Zone), CBD-C, CBD-X, D-LM and S-2 Zones.	10,000 square feet of floor area.	One (1) space for each 20 seats or for each 150 square feet area where seats are not fixed, in principal meeting rooms.
	CN Zones.	Total of 75 seats or 750 square feet of floor area where seats are not fixed, in principal meeting rooms.	One (1) space for each 15 seats, or for each 100 square feet of floor area where seats are not fixed, in principal meeting rooms.
	S-15 and D-CO Zones.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040.
	Any other zone.	Total of 75 seats, or 750 square feet of floor area where seats are not fixed in principal meeting rooms.	One (1) space for each 10 seats, or for each 100 square feet of floor area where seats are not fixed, in principal meeting rooms.
C. Community Education: high schools.	CBD-P, CBD-C, CBD-X, and D-LM Zones.	-	No spaces required.
	S-15 and D-CO Zones.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each three employees plus one space for each 10 students of planned capacity.
All others.	CBD-P, CBD-C, CBD-X, and D-LM Zones.	-	No spaces required.

Civic Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
	S-15 and D-CO Zones.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each three employees.
D. Nonassembly Cultural Administrative.	CBD-P, CBD-C, CBD-X, and D-LM Zones.	-	No spaces required.
	C-45 and S-2 Zones.	10,000 square feet of floor area.	One (1) space for each 1,400 square feet of floor area.
	CN Zones.	3,000 square feet of floor area.	One (1) space for each 900 square feet of floor area.
	S-15 and D-CO Zones.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	3,000 square feet of floor area.	One (1) space for each 600 square feet of floor area.
E. Health Care: hospitals.	CBD-P Zone (only when combined with the S-7 Zone).	-	No spaces required.
	C-45, CBD-P (only if not combined with the S-7 Zone), CBD-C, CBD-X, D-LM and S-2 Zones.	No minimum	One (1) space for each staff or regular visiting doctor.
	S-15 and D-CO Zones.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each four beds, plus one space for each four (4) employees other than doctors, plus one space for each staff or regular visiting doctor.

Civic Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
Clinics.	CBD-P Zone (only when combined with the S-7 Zone).	-	No spaces required.
	C-45, CBD-P (only when not combined with the S-7 zone), CBD-C, CBD-X, and S-2 Zones.	No minimum.	One (1) space for each staff or regular visiting doctor.
	S-15, D-CO, and D-LM Zones.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	Three (3) spaces for each staff or regular visiting doctor plus one (1) space for reach two other employees.
All other.	CBD-P Zone (only when combined with the S-7 Zone).	-	No spaces required.
	C-45, CBD-P (only when not combined with the S-7 Zone), CBD-C, CBD-X, D-LM and S-2 Zones.	No minimum.	One (1) space for each staff or regular visiting doctor.
	S-15 and D-CO Zones.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each six (6) beds, plus one space for each four (4) employees other than doctors, plus one space for each staff or regular visiting doctor.
F. Utility and Vehicular.	CDB-P, CBD-C, CBD-X and D-LM Zones.	-	No spaces required.

Civic Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
	C-45 and S-2 Zones.	10,000 square feet of floor area.	One (1) space for each vehicle used in connection with the activities.
	S-15 and D-CO Zones.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040.
	Any other zone.	3,000 square feet of floor area.	One (1) space for each three (3) employees plus one space for each vehicle used in connection with the activities.
G. Extensive Impact: colleges and universities.	CBD-P, CBD-C, CBD-X, and D-LM Zones.	-	No spaces required.
	S-15 and D-CO Zones.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each three (3) employees plus one space for each six (6) students of planned capacity.
All other.	CBD-P Zone (only when combined with the S-7 Zone)	-	No spaces required.
	S-15 and D-CO Zones.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040.
	Any other zone.	No minimum.	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12971, § 2(Exh. A), 9-22-2009; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12138 § 4 (part), 1999; Ord. 11892 § 13, 1996: prior planning code § 7512)

17.116.080 Off-street parking—Commercial Activities.

Except as otherwise provided in Sections 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for the specified Commercial Activities when located in the indicated zones and occupying facilities of the specified sizes, or having the indicated numbers of employees, and shall be developed and maintained pursuant to the provisions of Article IV of this Chapter: (See illustration I-18.)

Commercial Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
A. General Food Sales. Full Service Restaurant. Limited Service Restaurant and Cafe. Convenience Market. Alcoholic Beverage Sales.	CBD-P, CBD-C, CBD-X, D-LM, D-CO, and S-15 Zones.	—	No spaces required.
	C-45 and S-2 Zones.	3,000 square feet of floor area.	One (1) space for each 450 square feet of floor area.
	D-BV Zones.	See Section 17.116.082.	See Section 17.116.082.
	Any other zone.	3,000 square feet.	One (1) space for each 200 square feet of floor area.
B. Mechanical or Electronic Games. Medical Service. General Retail Sales, except when sales are primarily of bulky merchandise such as furniture or large appliances. Consumer Service. Consumer Cleaning and Repair Service, except when services consist primarily of repair or cleaning of large items such as furniture or carpets. General Wholesale Sales, whenever 50 percent or more of all sales on the lot are at retail. Undertaking Service.	CBD-P, CBD-C, CBD-X, D-LM, D-CO, and S-15 Zones.	—	No spaces required
	C-45 and S-2 Zones.	1,000 square feet of floor area.	One (1) space for each 900 square feet of floor area.
	CN Zones.	3,000 square feet of floor area.	One (1) space for each 600 square feet of floor area.
	D-BV Zones.	See Section 17.116.082.	See Section 17.116.082.
	Any other zone.	3,000 square feet of floor area.	One (1) space for each 400 square feet of floor area.

Commercial Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
C. Consultative and Financial Service. Administrative. Business, Communication and Media Service. Broadcasting and Recording Services. Research Service.	CBD-P, CBD-C, CBD-X, D-LM, D-CO, and S-15 Zones.	—	No spaces required.
	C-45 and S-2 Zones.	10,000 square feet of floor area.	One (1) space for each 1,400 square feet of floor area.
	CN Zones.	3,000 square feet of floor area.	One (1) space for each 900 square feet of floor area.
	D-BV Zones.	See Section 17.116.082.	See Section 17.116.082.
	Any other zone.	3,000 square feet of floor area.	One (1) space for each 600 square feet of floor area.
D. General Wholesale Sales, whenever less than fifty percent (50%) of all sales on the lot are at retail. Building Material Sales. Automotive Sales and Service. Automobile and Other Light Vehicle Sales and Rental.	S-15 and D-CO-1 Zones.	—	No spaces required.
	D-CO-2, D-CO-3, D-CO-4, D-CO-5, and D-CO-6 Zones.	10,000 square feet of floor area.	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	C-45, CBD-P, CBD-C, CBD-X, D-LM and S-2 Zones.	10,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area, or for each three (3) employees, whichever requires fewer spaces.
	D-BV Zones.	See Section 17.116.082.	See Section 17.116.082.
	Any other zone.	5,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area, or for each three (3) employees, whichever requires fewer spaces.
E. Group Assembly. Personal Instruction and Improvement Services.	CBD-P, CBD-C, CBD-X, D-LM, D-CO-1, and S-15 Zones.	—	No spaces required.
	D-CO-2, D-CO-3, D-CO-4, D-CO-5, and D-CO-6 Zones.	10,000 square feet of floor area.	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040

Commercial Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
	C-45 and S-2 Zones.	10,000 square feet of floor area.	One (1) space for each 16 seats in indoor places of assembly with fixed seats, plus one space for each 160 square feet of floor area in indoor places of assembly without fixed seats, plus a number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.116.040, for outdoor assembly area.
	CN Zones.	Total of 75 seats in indoor places of assembly with fixed seats, or 750 square feet of floor area in dance halls or other indoor places of assembly without fixed seats, or 5,000 square feet of outdoor assembly areas.	One (1) space for each eight seats in indoor places of assembly with fixed seats, plus one (1) space for each 80 square feet of floor area in indoor places of assembly without fixed seats, plus a number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.116.040, for outdoor assembly areas.
	D-BV Zones.	See Section 17.116.082.	See Section 17.116.082.
	Any other zone.	Total of 75 seats in indoor places of assembly with fixed seats, or 750 square feet of floor area in dance halls or other indoor places of assembly without fixed seats, or 5,000 square feet of outdoor assembly areas.	One (1) space for each eight seats in indoor places of assembly with fixed seats, plus one space for each 80 feet of floor area in indoor places of assembly without fixed seats, plus a number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.116.040, for outdoor assembly areas.
F. Transient Habitation.	CBD-P (only when combined with the S-7 zone), D-LM, DCO-1, and S-15 Zones.	—	No spaces required.
	D-CO-2, D-CO-3, D-CO-4, D-CO-5, and D-CO-6 Zones.	No minimum.	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040

Commercial Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
	CBD-P, CBD-C, CBD-X, and D-BV Zones.	No minimum.	One (1) space for each unit in a motel and one (1) space for each two units in a hotel.
	Any other zone.	No minimum.	One (1) space for each unit in a motel and three (3) spaces for each four units in a hotel.
G. General Retail Sales, whenever sales are primarily of bulky merchandise such as furniture or large appliances. Consumer Cleaning and Repair Service, whenever services consist primarily of repair or cleaning of large items such as furniture or carpets. Animal care and Animal boarding.	CBD-P, CBD-C, CBD-X, D-LM, D-CO, and S-15 Zones.	—	No spaces required.
	C-45 and S-2 Zones.	10,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area.
	D-BV Zones.	See Section 17.116.082.	See Section 17.116.082.
	Any other zone.	5,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area.
H. Automobile and Other Light Vehicle Gas Station and Servicing. Automotive and Other Light Vehicle Repair and Cleaning. Automotive Fee Parking.	CBD-P, CBD-C, CBD-X, D-LM, D-CO, and S-15 Zones.	—	No spaces required.
	C-45 and S-2 Zones.	10,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area.
	D-BV Zones.	See Section 17.116.082.	See Section 17.116.082.
	Any other zone.	No minimum.	One (1) space for each 1,000 square feet of floor area.
I. Transport and Warehousing. Taxi and Light Fleet-based Service.	CBD-P, CBD-C, CBD-X, D-CO, and D-LM Zones.	—	No spaces required.
	D-BV Zones.	See Section 17.116.082.	See Section 17.116.082.
	Any other zone.	10,000 square feet of floor area and outdoor storage, processing, or sales area.	One (1) space for each three employees.

Commercial Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
J. Scrap Operation.	CBD-P, CBD-C, CBD-X, D-CO, and D-LM Zones.	—	No spaces required.
	D-BV Zones.	See Section 17.116.082.	See Section 17.116.082.
	Any other zone.	10,000 square feet of floor area and outdoor storage, processing or sales area.	One (1) space for each 2,000 square feet of floor area, or for each three employees, whichever requires more spaces; provided that in the case of Scrap Operation Commercial Activities whenever storage and sale, from the premises, or dismantling or other processing of used or waste materials which are not intended for reuse and their original form, when the foregoing are not a part of a manufacturing operation, occupy less than 50 percent (50%) of the floor and open area of the firm on a single lot, the parking requirement shall be as prescribed for the other activities engaged in by the same firm on the same lot.
K. Fast-Food Restaurant.	CBD-P, CBD-C, CBD-X, D-LM, D-CO, and S-15 Zones.	—	No spaces required.
	C-45 Zone.	10,000 square feet of floor area.	One (1) space for each 450 square feet of floor area.
	CN and S-2 Zones.	2,000 square feet of floor area.	One (1) space for each 300 square feet of floor area.
	D-BV Zones.	See Section 17.116.082.	See Section 17.116.082.
	Any other zone.	3,000 square feet of floor area.	One (1) space for each 200 square feet of floor area.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12971, § 2(Exh. A), 9-22-2009; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12289 § 4 (part), 2000; Ord. 11892 § 14, 1996: prior planning code § 7513)

17.116.082 Off-street parking in the D-BV Zones—Commercial Activities

Except as otherwise provided in Sections 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for Commercial Activities when located in the D-BV Zones and occupying facilities of the specified sizes. The required parking spaces shall be developed and maintained pursuant to the provisions of Article IV of this Chapter: (See illustration I-18.)

Location of Commercial Activity	Minimum Total Size for Which Parking Required	Requirement
A. Commercial Activities on the ground floor, except for Transient Habitation (see Table 17.116.080).	10,000 square feet of floor area.	One (1) space for each 500 square feet of floor area.
B. Commercial Activities not on the ground floor, except for Transient Habitation (see Table 17.116.080).	10,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area.

17.116.090 Off-street parking—Industrial Activities.

Except as otherwise provided in Sections 17.101.090, 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.040, the following amounts of off-street parking are required for all Industrial Activities when located in the indicated zones and occupying facilities of the specified sizes or having the indicated number of employees, and shall be developed and maintained pursuant to the provisions of Article IV of this Chapter: (See illustration I-18.)

Zone	Minimum Total Size for Which Parking Required	Requirement
CBD-P, CBD-C, CBD-X, D-CO, and S-15 Zones.	—	No spaces required.
Any other zone.	10,000 square feet of floor area.	One (1) space for each 1,500 square feet of floor area or for each three (3) employees, whichever requires more spaces.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12971, § 2(Exh. A), 9-22-2009; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12289 § 4 (part), 2000; Ord. 11892 § 15, 1996: prior planning code § 7514)

17.116.100 Off-street parking—Agricultural and Extractive Activities.

Except as otherwise provided in Sections 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for all Agricultural and Extractive Activities when located in the

indicated zones and occupying facilities of the specified sizes, and shall be developed and maintained pursuant to the provisions of Article IV of this Chapter: (See illustration I-18.)

Zone	Minimum Total Size for Which Parking Required	Requirement
CBD-P, CBD-C, CBD-X, D-CO, and D-LM Zones.	-	No spaces required.
C-45 and S-2 Zones.	10,000 square feet of floor area and outdoor sales or display area.	One (1) space for each 1,000 square feet of floor area and outdoor sales or display area.
Any other zone.	5,000 square feet of floor area and outdoor sales or display area.	One (1) space for each 1,000 square feet of floor area and outdoor sales or display area.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12971, § 2(Exh. A), 9-22-2009; Ord. No. 12955, § 2(Exh. A), 7-21-2009; prior planning code § 7515)

17.116.110 Special exemptions to parking requirements.

The provisions of this Section shall apply to all activities in all or specified zones, except Residential Activities occupying One-Family, Two-Family or Multifamily Residential Facilities located within the S-12 Residential Parking Combining Zone, where the provisions of Section 17.94.040 shall apply.

A. **Discretionary Reduction for Senior Citizen Housing and Dormitories.** In senior citizen housing where living units are regularly occupied by not more than two individuals at least one of whom is sixty (60) years of age or older or is physically handicapped regardless of age, or in a dormitory, fraternity, or similar facility, the number of parking spaces prescribed in Section 17.116.060 may be reduced by not to exceed seventy-five percent (75%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that the proposal conforms to the use permit criteria set forth in Subsections A. or B., and C. of this Section:

1. In the case of senior citizen housing where living units are regularly occupied by not more than two individuals at least one of whom is sixty (60) years of age or older or is physically handicapped regardless of age, that such occupancy is guaranteed, for a period of not less than fifty (50) years, by appropriate conditions incorporated into the permit;

2. In the case of a dormitory, fraternity, or similar facility, that the occupants are prevented from operating a motor vehicle because they are not of driving age or by other special restriction, which limitation of occupancy by non-qualifying drivers is assured by appropriate conditions incorporated into the permit;

3. That due to the special conditions referred to above, and considering the availability, if any, of public transportation within convenient walking distance, the reduced amount of parking will be adequate for the activities served, and that the

reduction will not contribute to traffic congestion or impair the efficiency of on-street parking.

B. **Discretionary Reduction of Total Requirements with Shared Parking Area.** For a joint off-street parking area which serves two (2) or more Nonresidential Activities in any zone, or Residential Activities in the CN, C-45, or CBD Zones, and which meets the conditions set forth in Section 17.116.180, the total parking requirement for the sharing activities may be reduced by not to exceed fifty percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that the typical utilization of the parking area would be staggered to such an extent that the reduced number of spaces would be adequate to serve all such activities.

C. **Discretionary Waiver or Reduction in Districts Providing Common Parking Areas.** The off-street parking requirements specified above for Nonresidential Activities in any zone, or for Residential Activities in the CN, C-45, or CBD Zones, may be waived or reduced by the Director of City Planning when said activities are located within a municipal parking district or assessment district the function of which is to provide off-street parking, upon a finding that, in consideration of existing or prospective municipal parking facilities, such waiver or reduction would not substantially contribute to traffic congestion or impair the efficiency of on-street parking. Any determination on such waiver or reduction shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

D. **Each of the following provisions shall apply in the D-BV and D-LM Zones only:**

1. **In-Lieu Fee.** The parking space requirements of this Section for the D-BV and D-LM Zones may be reduced or waived upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and payment of an in-lieu fee to the City of Oakland. The parking in-lieu fee shall be as set forth in the Master Fee Schedule. Parking in-lieu fees shall be deposited with the City of Oakland prior to issuance of a building permit. A parking in-lieu fee may be refunded, without interest, to the person who made such payment, or his assignee or designee, if additional off-street parking spaces are provided for such building or use by others than the City so as to satisfy the parking requirement for which the in-lieu payment was made. To obtain a refund, the required off-street parking spaces must be in place prior to issuance of a certificate of occupancy and before funds are spent or committed by the City.

2. **Narrow Lots.** Lots with a mean width of less than fifty (50) feet and fronting Broadway or 27th Street are not required to provide parking on-site unless alternative driveway access is available from an alternative location, such as a shared access driveway from an adjoining parcel or from an alley.

3. **Conversion of Historic Buildings.** No additional parking spaces are required for the conversion of a Nonresidential Facility to a Residential Facility or vice versa if the Nonresidential or Residential Facility is either a Potentially Designated Historic Property (PDHP) or a property listed in the City of Oakland's Local Register of Historical Resources (see Policy 3.8 of Historic Preservation Element of the Oakland General Plan). If the number of existing parking spaces on the lot is less than required, then that number of parking spaces must be preserved with the conversion. If there are more parking spaces on the lot than required, then the number of spaces can be reduced to the minimum required. Parking spaces shall not be further reduced below the requirement unless payment of an in-lieu fee, as set forth in the Master Fee Schedule, to the City of Oakland is provided.

4. **Affordable Housing.** Parking requirements applicable to affordable housing for moderate, low, and very low income households, (as defined in California Government Code Section 50052.5 and in Oakland Planning Code Section 17.107.020), shall be one-quarter (1/4) spaces per dwelling unit. In Subsection 17.116.110(A) of this Chapter, Senior Citizen Housing and Dormitories requirements apply but do not require a Conditional Use Permit and the reduced parking requirement is one-quarter (1/4) spaces per dwelling unit.

5. **Unbundled Parking.** The following rules shall apply to new Multifamily Dwelling Residential Facilities of ten (10) or more units:

   a. Off-street parking spaces shall be leased or sold separately from the rental or purchase of dwelling units for the life of the dwelling units, such that potential renters or buyers shall have the option of renting or buying a residential unit at a price lower than would be the case if there were a single price for both the residential unit and the parking space(s).

   b. Off-street parking spaces serving affordable units as defined in Section 17.107.020 shall be offered to potential buyers and renters at a price proportional to the sale or rental price of the affordable units as compared to the price proportional to comparable market rate units, except when offered to non-residents pursuant to Subsection (c) below.

   c. Parking spaces shall be offered only to residents of the dwelling units served by the off-street parking, except that any surplus spaces that are not rented or sold may be rented to non-residents with the provision that such spaces must be vacated on 30 days' notice if requested by residents to be made available to them.

6. **No Variances.** Notwithstanding anything to the contrary contained in the Planning Code, variances may not be granted relating to: (a) a reduction and/or elimination of any required parking; or (b) a reduction and/or elimination of any parking spaces serving any activity, or if already less than currently required parking, shall not be reduced further below the requirements prescribed for such activity in this Chapter, as the granting of a CUP (see Chapter 17.134 for the CUP procedure) and payment of the in-lieu fee shall be the sole means of reducing or eliminating such parking.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12971, § 2(Exh. A), 9-22-2009; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. 12772 § 1 (part), 2006; prior planning code § 7519)

Article III Off-Street Loading Requirements

17.116.120 Off-street loading—Residential Activities.

17.116.130 Off-street loading—Civic Activities.

17.116.140 Off-street loading—Commercial Activities.

17.116.150 Off-street loading—Industrial Activities.

17.116.160 Off-street loading—Agricultural and Extractive Activities.

17.116.120 Off-street loading—Residential Activities.

Except as otherwise provided in Sections 17.116.020 and 17.116.030, the following amounts of off-street loading are required in all zones for Residential Activities when occupying facilities of the indicated sizes, and shall be developed and maintained pursuant to the provisions of Article IV of this Chapter: (See illustration I-18.)

Total Floor Area of Facilities Occupied Requirement	Requirement
Less than 50,000 square feet.	No berth required.*
50,000—149,999 square feet.	One (1) berth.*
150,000—299,999 square feet.	Two (2) berths.*
Each additional 300,000 square feet or fraction of one-half or more thereof.	One (1) additional berth.*

*Off-street loading is not required in CBD-P zone when combined with the S-7 zone.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12955, § 2(Exh. A), 7-21-2009; prior planning code § 7521)

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17.116.130 Off-street loading—Civic Activities.

Except as otherwise provided in Sections 17.116.020 and 17.116.030, the following amounts of off-street loading are required in all zones for the specified Civic Activities when occupying facilities of the indicated sizes, and shall be developed and maintained pursuant to the provisions of Article IV of this Chapter: (See illustration I-18.)

Civic Activity and Total Floor Area of Facilities Occupied	Requirement
A. Community Assembly, Community Education, Nonassembly Cultural, Health Care, or Administrative, occupying the following floor area:	
Less than 50,000 square feet.	No berth required.*
50,000—149,999 square feet.	One (1) berth.*
150,000—299,999 square feet.	Two (2) berths.*
Each additional 100,000 square feet or fraction of one-half or more thereof.	One (1) additional berth.*
B. Utility and Vehicular or Extensive Impact.	A number of berths to be prescribed by the Director of City Planning pursuant to Section 17.116.040
C. All other Civic Activities.	No berths required.

*Off-street loading is not required in the CBD-P zone when combined with the S-7 zone.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12955, § 2(Exh. A), 7-21-2009; prior planning code § 7522)

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17.116.140 Off-street loading—Commercial Activities.

Except as otherwise provided in Sections 17.116.020 and 17.116.030, the following amounts of off-street loading are required in all zones for the specified Commercial Activities when occupying facilities of the indicated sizes, and shall be developed and maintained pursuant to the provisions of Article IV of this Chapter: (See illustration I-18.)

Commercial Activity and Total Size of Facilities Occupied	Requirement
A. General Food Sales, Full Service Restaurant, Limited Service Restaurant and Cafe, Fast-Food Restaurant, Convenience Market, Alcoholic Beverage Sales, Consumer Service, General Retail Sales, Consumer Cleaning and Repair Service, Group Assembly, Personal Instruction and Improvement Services, Communication and Media Service, Broadcasting and Recording Service, Research Service, General Wholesale Sales, Building Material Sales, Automobile and Other Light Vehicle Sales and Rental, Automobile and Other Light Vehicle Gas Station and Servicing, Automotive and Other Light Vehicle Repair and Cleaning, Transport and Warehousing, Animal Care, or Animal Boarding occupying facilities with the following floor area:	
Less than 10,000 square feet.	No berths required.*
10,000—24,999 square feet.	One (1) berth.*
25,000—49,999 square feet.	Two (2) berths.*
50,000—99,999 square feet.	Three (3) berths.*
Each additional 120,000 square feet or fraction of one-half or more thereof.	One (1) additional berth.*
B. Mechanical or Electronic Games, Medical Service, Consumer Service, Consultative and Financial Service, Administrative, or Transient Habitation, occupying facilities with the following floor area:	
Less than 50,000 square feet.	No berths required.*
50,000—149,999 square feet.	One (1) berth.*
150,000—299,999 square feet.	Two (2) berths.*
Each additional 300,000 square feet or fraction of one-half or more thereof.	One (1) additional berth.*

Commercial Activity and Total Size of Facilities Occupied	Requirement
C. Undertaking Service, occupying facilities with the following floor area:	
Less than 2,500 square feet.	No berths required.*
2,500—24,999 square feet.	One (1) berth.
25,000—49,999 square feet.	Two (2) berths.*
50,000—99,999 square feet.	Three (3) berths.*
Each additional 120,000 square feet or fraction of one-half or more thereof.	One (1) additional berth.*
D. Scrap Operation, occupying facilities with the following amounts of floor area and outdoor storage, processing, or sales area:	
Less than 25,000 square feet.	One (1) berth.*
25,000—49,999 square feet.	Two (2) berths.*
50,000—99,999 square feet.	Three (3) berths.*
Each additional 120,000 square feet or fraction of one-half or more thereof.	One (1) additional berth.*
E. All other Commercial Activities.	No berths required.*

*Off-street loading is not required in the CBD-P zone when combined with the S-7 zone.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. No. 12939, § 4(Exh. A), 6-16-2009; prior planning code § 7523)

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17.116.150 Off-street loading—Industrial Activities.

Except as otherwise provided in Sections 17.116.020 and 17.116.030, the following amounts of off-street loading are required in all zones for all Industrial Activities when occupying facilities of the indicated sizes, and shall be developed and maintained pursuant to the provisions of Article IV of this Chapter: (See illustration I-18.)

Total Floor Area of Facilities Occupied	Requirement
Less than 10,000 square feet.	No berths required.*

10,000—24,999 square feet.	One (1) berth.*
25,000—49,999 square feet.	Two (2) berths.*
50,000—99,999 square feet.	Three (3) berths.*
Each additional 170,000 square feet or fraction of one-half or more thereof.	One (1) additional berth.*

*Off-street loading is not required in the CBD-P zone when combined with the S-7 zone.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; prior planning code § 7524)

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17.116.160 Off-street loading—Agricultural and Extractive Activities.

Off-street loading is not required in any zone for Agricultural or Extractive Activities.

(Prior planning code § 7525)

Article IV Standards for Required Parking and Loading Facilities

17.116.170 Property on which parking and loading must be provided.

17.116.175 Standards and criteria for accessory parking that serves a prohibited activity.

17.116.180 Conditions for off-street parking or loading.

17.116.190 Utilization of off-street parking and loading facilities.

17.116.200 Parking space dimensions.

17.116.210 Driveways and maneuvering aisles for parking.

17.116.220 Loading berth dimensions.

17.116.230 Driveways and maneuvering aisles for loading.

17.116.240 Tandem spaces and berths.

17.116.250 Maximum backing distance.

17.116.260 Surfacing and grade of parking and loading facilities.

17.116.270 Screening and setback of parking and loading areas.

17.116.280 Control on artificial illumination of parking and loading facilities.

17.116.290 Special requirements applying in some zones.

17.116.300 Parking accommodation requirements for One- and Two-Family Residential Facilities.

17.116.170 Property on which parking and loading must be provided.

A. Parking Spaces and Loading. Off-street parking spaces and loading berths required by the zoning regulations shall be located as set forth below for the specified activities except as otherwise provided in Section 17.116.290B. When a maximum distance from the lot containing the activity served to another lot is prescribed, it shall be measured along a permanently accessible pedestrian route between a lot line of the former lot and the nearest boundary of the offsite parking or loading area.

Required Facility and Activity it Serves	Zone	Location
Parking spaces for any Residential Activity.	CN, C-45, CBD, D-CO, and D-LM Zones.	On the same lot as the activity served; or, subject to the provisions of Section 17.116.180, on another lot located within three hundred (300) feet and having at least one owner in common with the former lot.
	Any other zone.	On the same lot as the activity served, but for One and Two-Family Residential Facilities on any lot with a street-to-setback gradient that exceeds twenty percent (20%), required parking stalls may be permitted to extend into the public right-of-way of an adjoining street subject to the following standards (see illustration I-20c):
		1. The required parking stalls shall be located perpendicular to and the edge of the curb, pavement, or sidewalk;
		2. The parking stalls shall be set back a minimum of five (5) feet from the edge of street pavement including any curbs or sidewalks; and
		3. The parking stalls extending into the street right-of-way shall not constitute more than fifty percent (50%) of the required residential parking.
Parking spaces for any Industrial Activity; Administrative or Utility and Vehicular Civic Activities; or Administrative, Research Service Commercial Activities.	Any zone.	On the same lot as the activity served; or, subject to the provisions of Section 17.116.180, on another lot located within five hundred (500) feet and having at least one owner in common with the former lot.
Parking spaces for any activity not listed above.	Any zone.	On the same lot as the activity served; or, subject to the provisions of Section 17.116.180, on another lot located within three hundred (300) feet and having at least one owner in common with the former lot.
Loading berths for any activity.	Any zone.	On the same lot as the activity served; or, subject to the provisions of Section 17.116.180, on an abutting lot having at least one owner in common with the former lot, except that a jointly owned off-street loading facility for Nonresidential Activities in any zone, or for Residential

Required Facility and Activity it Serves	Zone	Location
		Activities in the D-CO, D-LM, CBD, CN, and C-45 Zones, may, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, and subject to the provisions of Section 17.116.180, be located on a lot which does not abut all the lots containing the activities served.

B. Maneuvering Aisles and Driveways. Required maneuvering aisles and driveways shall be located as specified in Subsection A. of this Section for required spaces or berths serving the same activity, except as follows:

1. A required driveway may, subject to the provisions of Section 17.116.180, straddle the lot line of abutting lots in separate ownership if it leads to parking spaces or loading berths on both lots.

2. A required maneuvering aisle or portion thereof may, subject to the provisions of Section 17.116.180, straddle the lot line of abutting lots in separate ownership if there are on both sides of such aisle, or portion thereof, parking spaces or loading berths which are directly opposite each other.

C. Upon the granting of a conditional use permit pursuant to the conditional use permit procedure, and subject to the provisions of Section 17.102.090 and Section 17.116.180, any required driveway or maneuvering aisle may be located entirely on another lot or lots in separate ownership.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12971, § 2(Exh. A), 9-22-2009; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12406 § 4 (part), 2002; Ord. 12376 § 3 (part), 2001; Ord. 11892 § 16, 1996; prior planning code § 7535)

17.116.175 Standards and criteria for accessory parking that serves a prohibited activity.

The following regulations shall apply to parking serving principal activities which are not themselves permitted, wherever such parking is listed in the applicable individual zone regulations as permitted or conditionally permitted. Approval of a permit for such accessory parking is subject to the conditions set forth in this Section:

A. General Conditions. In all zones, such parking facilities shall be used for accessory parking only, with no sales, dead storage, repair work, dismantling, or servicing of any kind.

B. Conditions in Residential Zones. In all Residential Zones:

1. Such parking shall not in any case be located farther than one hundred fifty (150) feet, excluding the width of any intervening street, from the nearest boundary of any Nonresidential Zone, as measured perpendicularly from said boundary at any point; and

2. Such parking shall not be so located as to extend along any one side of any street farther into any Residential Zone than any residentially zoned lot which is in

separate ownership and which has frontage on the same side of the same street as said parking, other than a lot developed only for parking; and

3. Such parking facilities shall be open only; and
4. All Signs serving such parking shall be subject to the limitations set forth in Subsection 17.104.010.G.3.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.116.180 Conditions for off-street parking or loading.

Whenever, pursuant to Section 17.116.170, any required off-street parking or loading facilities are located on a lot other than the lot containing the activity served, the owner or owners of both lots shall prepare and execute to the satisfaction of the City Attorney, and file with the Alameda County Recorder, an agreement guaranteeing that such facilities will be maintained and reserved for the activity served, for the duration of said activity.

(Prior planning code § 7536)

17.116.190 Utilization of off-street parking and loading facilities.

Facilities which are intended to meet the off-street parking and loading requirements of the zoning regulations shall be made permanently available to, and maintained so as to permit utilization by, the residents, shoppers, employees, or other participants in, or the loading operations of, the activity or activities served, except as otherwise provided in Section 17.116.290B. No area may be utilized and counted both as a required parking space and a required loading berth. However, maneuvering aisles and driveways may serve both required parking spaces and loading berths if they meet the requirements specified hereafter for both parking and loading facilities.

(Ord. 11892 § 17, 1996: prior planning code § 7538)

17.116.200 Parking space dimensions.

(See illustration I-21.) The provisions of this Section shall apply to all activities in all zones except Residential Activities occupying One-Family, Two-Family, or Multifamily Residential Facilities located within the S-12 Residential Parking Combining Zone, where the provisions of Section 17.94.060 shall apply. All required parking spaces shall have the minimum dimensions set forth below and shall be provided, where necessary, with driveways and maneuvering aisles as set forth in Section 17.116.210. Compact and intermediate parking spaces shall count toward the off-street parking requirements only if located on a lot containing a total of three or more required spaces. On such a lot, up to fifty percent (50%) of the required parking spaces may be compact spaces, provided that at least fifty percent (50%) of the required spaces are regular and/or handicapped spaces. Alternatively, when five or more parking spaces are required, up to seventy-five percent (75%) of the required spaces may be intermediate spaces, provided that if any required spaces are compact spaces, an equal or greater number of the required spaces shall be regular and/or handicapped spaces.

A. Regular Parking Spaces. A regular parking space shall be not less than eighteen (18) feet long and eight and one-half feet (8½) wide for all parking patterns except parallel parking. However, where one or both of the long sides of a regular parking space which is at an angle of ninety (90) degrees or less, but more than sixty (60) degrees, to

a maneuvering aisle abuts a wall or other, similar obstruction, the width specified above shall be increased by two (2) feet. (See Subsection D. for exceptions to this two (2) foot requirement). For parallel parking, a regular parking space shall be not less than twenty-two (22) feet long and eight (8) feet wide.

B. Intermediate Parking Spaces. An intermediate parking space shall be not less than sixteen and one-half (16½) feet long and eight (8) feet wide for all parking patterns except parallel parking. However, where one or both of the long sides of a regular parking space which is at an angle of ninety (90) degrees or less, but more than sixty (60) degrees, to a maneuvering aisle abuts a wall or other, similar obstruction, the width specified above shall be increased by two (2) feet. See Subsection D. for exceptions to this two (2) foot requirement. For parallel parking, an intermediate parking space shall be not less than twenty and one-half (20½) feet long and seven and one-half (7½) feet wide.

C. Compact Parking Spaces. A compact parking space shall be not less than fifteen (15) feet long and seven and one-half (7½) feet wide for all parking patterns except parallel parking. However, where one or both of the long sides of a compact parking space which is at an angle of ninety (90) degrees or less, but more than sixty (60) degrees, to a maneuvering aisle abuts a wall or other, similar obstruction, the width specified above shall be increased by two (2) feet. (See Subsection D. for exceptions to this two (2) foot requirement). For parallel parking, a compact parking space shall be not less than nineteen (19) feet long and seven (7) feet wide.

D. Posts and Other Obstructions. Posts and other similar structural members may be located immediately adjacent to a required parking space, provided that:

1. Such required parking space is a regular space or, if the City Traffic Engineer determines that sufficient maneuvering area is present, an intermediate or compact space; and

2. Such post or other similar structural member is located at least three (3) feet but not more than five (5) feet from the maneuvering aisle or located not more than four (4) feet from the end of the parking space opposite the maneuvering aisle; and

3. Such post or other similar structural member does not impede pedestrian access to vehicle parking in the space; and

4. Such posts and other similar structural members shall be located on one side only of a required parking space.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12376 § 3 (part), 2001: prior planning code § 7539)

17.116.210 Driveways and maneuvering aisles for parking.

Where necessary, maneuvering aisles and driveways shall be provided of such design and arrangement as to provide adequate ingress to and egress from all required parking spaces. (See also Sections 17.94.070, 17.94.080, 17.116.240, 17.116.250, and 17.116.260.) Except within the S-12 Residential Parking Combining Zone, where the provisions of Section 17.94.080 shall apply, and for shared access facilities, where the provisions of Section 17.102.090 shall apply, an onsite driveway serving any required off-street parking area shall have a minimum width of nine feet. Driveways serving Residential Facilities with one or two living units on one lot shall be not more than nineteen (19) feet in width with a curb cut no more than nineteen (19)

feet in width, and shall be limited to one driveway and one driveway curb cut per lot frontage. Driveways serving one lot or serving any of several adjacent lots under the same ownership shall be separated edge-to-edge by at least twenty-five (25) feet; where curbs exist, the separation shall be by at least twenty-five (25) feet of full vertical curb. Driveways serving adjacent lots under different ownership shall be separated edge-to-edge by at least ten (10) feet; where curbs exist, the separation shall be by at least ten feet of full vertical curb.

A. Maneuvering Aisle Width. Except for activities occupying One-Family, Two-Family, or Multifamily Residential Facilities located within the S-12 Residential Parking Combining Zone, where the provisions of Section 17.94.070 shall apply, maneuvering aisles necessary for access into and out of required parking spaces shall have the following minimum widths, whether serving regular, intermediate, or compact parking spaces:

1. Where parking is parallel: eleven (11) feet;
2. Where parking is at an angle of forty-five (45) degrees or less: twelve (12) feet;
3. Where parking is at an angle of sixty (60) degrees or less but more than forty-five (45) degrees: fifteen (15) feet;
4. Where parking is at an angle of seventy-five (75) degrees or less but more than sixty (60) degrees: eighteen (18) feet;
5. Where parking is at an angle of ninety (90) degrees or less but more than seventy-five (75) degrees: twenty-one (21) feet.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: prior planning code § 7540)

17.116.220 Loading berth dimensions.

All required loading berths shall have the minimum dimensions set forth below when serving the indicated activities; provided that where one or both of the long sides of a berth which is at an angle of ninety (90) degrees or less, but more than sixty (60) degrees, to a maneuvering aisle abuts a wall or other similar obstruction, each of the widths specified below shall be increased by three (3) feet. However, the minimum height or length of a required berth may in any case be reduced upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that such smaller dimensions are ample for the size and type of trucks or goods which foreseeably will be involved in the loading operations of the activity served.

A. For all Industrial Activities and for General Wholesale Sales, Building Material Sales, Automobile and Other Light Vehicle Sales and Rental, Automobile and Other Light Vehicle Gas Station and Servicing, forty-five (45) feet long, twelve (12) feet wide, and fourteen (14) feet high;

B. For Undertaking Service Commercial Activities: twenty-five (25) feet long, ten (10) feet wide, and eight (8) feet high;

C. For all other activities for which loading facilities are required: thirty-three (33) feet long, twelve (12) feet wide, and fourteen (14) feet high.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; prior planning code § 7541)

17.116.230 Driveways and maneuvering aisles for loading.

Where necessary, maneuvering aisles and driveways shall be provided of such design and arrangement as to allow efficient utilization of all required loading berths by motor vehicles of the types typically employed by the activities served. (See also Sections 17.116.240, 17.116.250, and 17.116.260.)

(Prior planning code § 7542)

17.116.240 Tandem spaces and berths.

(See illustration I-21.) A vehicle shall not have to cross another loading berth, or a parking space, in order to gain access to any required loading berth. On any lot containing three (3) or more required off-street parking spaces, or containing required spaces for two (2) or more residential living units, a vehicle shall not have to cross another parking space, or a loading berth, in order to gain access to a required parking space, except that:

A. In the S-11 Zone, with the provision of three (3) or more required parking spaces for a given One-Family Dwelling or One-Family Dwelling with Secondary Unit Residential Facility, at least fifty percent (50%) of the vehicles shall not have to cross another parking space in order to gain access to a required parking space.

B. In the S-12 Zone, tandem parking may be permitted for One-Family Dwelling, One-Family Dwelling with Secondary Unit, Two-Family Dwelling, and Multi-family Dwelling Residential Facilities under the provisions of Section 17.94.060.

C. In any zone, except when combined with the S-11 or S-12 Zones, tandem parking may be permitted for one (1) of the required spaces on a lot containing a One-Family Dwelling with Secondary Unit Residential Facility if the floor area of the Secondary Unit does not exceed the maximum allowed in Section 17.103.080.

D. In any zone, tandem parking may be permitted for Nonresidential Activities upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that such proposal conforms to either or both of the following use permit criteria:

    1. That a full-time parking attendant supervises the parking arrangements at all times when the activities served are in active operation;

    2. That there are a total of ten (10) or fewer parking spaces on a lot, or within a separate parking area or areas on a lot, which spaces are provided solely for employees.

F. Tandem parking spaces may be provided for Residential Care Residential Activities pursuant to the provisions of Section 17.116.060B.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12501 § 79, 2003: Ord. 12199 § 8 (part), 2000; Ord. 12138 § 4 (part), 1999; prior planning code § 7543)

17.116.250 Maximum backing distance.

All required off-street parking facilities which are located on any lot containing three (3) or more required parking spaces or containing required spaces for two (2) or more Residential living units, and all required off-street loading facilities on any lot, shall be so designed and

located that a vehicle need not back up from any such required parking space or loading berth for a distance greater than one hundred (100) feet in order to reach a street. The one hundred (100) feet shall be measured from the back of the furthest required parking space to the back of the sidewalk or, if there is no sidewalk, to the edge of pavement or face of curb, whichever is applicable.

(Ord. 12376 § 3 (part), 2001: prior planning code § 7544)

17.116.260 Surfacing and grade of parking and loading facilities.

A. Slopes. The maximum slope of any required maneuvering aisle, parking space, or loading berth shall be ten percent (10%). The maximum slope of any required driveway shall be twenty-five percent (25%). For all driveways, extending from streets without curbs, gutters or sidewalks, the first five (5) feet of the driveway shall be level with the edge of the pavement. For driveways less than fifteen (15) feet in length, the maximum slope for other than the first five (5) feet shall be ten percent (10%). For driveways fifteen (15) feet of more in length but less than twenty-five (25) feet, the maximum slope for the first ten (10) feet of driveway beyond the level portion shall be ten percent (10%) and the maximum slope of the remainder shall be fifteen percent (15%). For driveways twenty-five (25) feet or more in length, the maximum slope for the first ten (10) feet of driveway beyond the level portion shall be ten percent (10%), the maximum slope for the final ten (10) feet shall be fifteen percent (15%), and the maximum slope for the portion between shall be twenty-five percent (25%). For downslope driveways leading to garages, the final two (2) feet shall be level or upslope not exceeding five percent (5%).

B. Surfacing. All required parking and loading facilities shall have a durable, dustless, all-weather surface; shall have satisfactory disposal of surface waters by grading and drainage; and shall be permanently maintained in good condition. All driveways with a slope of twenty percent (20%) or more shall have a serrated concrete surface or other surface providing a similar level of traction.

C. Design for Runoff. All required off-street parking facilities located on any lot containing three (3) or more required spaces, and all required off-street loading facilities on any lot, shall be so designed that surface water will not drain over any sidewalk.

D. For all other activities for which loading facilities are required: thirty-three (33) feet long, twelve (12) feet wide, and fourteen (14) feet high.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12406 § 4 (part), 2002; Ord. 12376 § 3 (part), 2001: prior planning code § 7546)

17.116.270 Screening and setback of parking and loading areas.

A. In all Residential Zones and in the S-1, S-2, S-3, and OS Zones. In all Residential Zones and in the S-1, S-2, S-3 and OS Zones, all open off-street parking areas on any lot containing three (3) or more spaces, and all open off-street loading areas on any lot, shall be screened from abutting lots, except where a maneuvering aisle is shared with the abutting lot in the manner described in Section 17.116.170(B)(2), by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide or by a solid lumber or masonry fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said Chapter. All such areas shall be screened from all abutting streets, alleys, and paths, and private streets and other ways described in Section 17.106.020, by dense

landscaping not less than three and one-half (3½) feet high and not less than three (3) feet wide or by a solid or grille, lumber or masonry fence or wall not less than three and one-half (3½) feet high, subject to the standards for required landscaping and screening and the exceptions stated therein. No unroofed parking space or loading berth on such lots shall be located within five (5) feet from any street line or alley, except as allowed by Section 17.116.170

B. Commercial or Industrial Zone. (See illustration I-17). Off-street parking and loading facilities shall be screened, and restricted in their location on a lot, when and as prescribed in Sections 17.110.030 and 17.110.040 of the buffering regulations or in the applicable individual zone regulations or development control maps.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12376 § 3 (part), 2001; Ord. 12078 § 5 (part), 1998; prior planning code § 7547)

17.116.280 Control on artificial illumination of parking and loading facilities.

In all Residential Zones and in the S-1, S-2, S-3, and OS Zones, artificial illumination of all off-street parking areas located on any lot containing three (3) or more parking spaces and all off-street loading areas on any lot, and of driveways related thereto, shall be nonflashing and shall be directed away from all abutting lots and from any on-site residential living units so as to eliminate objectionable glare. In Commercial and Industrial Zones, artificial illumination of off-street parking and loading facilities shall be controlled when and as specified in Section 17.110.030 of the buffering regulations.

(Ord. 12078 § 5 (part), 1998; prior planning code § 7548)

17.116.290 Special requirements applying in some zones.

A. Whenever required off-street parking or loading facilities are located where the applicable individual zone regulations or development control maps require a conditional use permit for parking or loading or prescribe other special controls thereon, such regulations shall be complied with in addition to the standards prescribed above for required parking and loading.

B. In the S-15 and D-CO-1 Zones:

1. Location of Parking. All off-street parking may be provided anywhere on the lot, or on a separate lot which is not in common ownership with the subject lot, provided that a long-term lease agreement or comparable binding agreement is provided, pursuant to Section 17.116.180.

2. Parking Serving Nonresidential Uses. Off-street parking serving nonresidential uses may only be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedures in Chapter 17.134.

3. Ground Floor Parking and Loading. Off-street parking, loading, and driveway located within twenty (20) feet from all pedestrian walkways and plazas may only be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedures in Chapter 17.134 and Section 17.100.100.

4. Provisions for Shared Parking. Off-street parking may be shared amongst daytime activities between the hours of business operation and between the hours of nighttime activities. The number of required parking spaces for daytime use may be transferable

to required parking or nighttime use, provided that a long-term lease agreement or comparable binding agreement is provided, pursuant to Section 17.116.180.

5. Exceptions to Parking Requirement. The number of parking spaces provided may exceed the number required upon the granting of a conditional use permit pursuant to Section 17.100.100 and the conditional use permit procedure in Chapter 17.134.

C. In the RU-4, RU-5, CN, CC, CR, CBD, D-CO-1, or S-15 Zones, the required number of parking spaces may be reduced by up to fifty percent (50%) upon the granting of a conditional use permit (see Chapter 17.134). The conditional use permit may 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 the following additional criteria:

1. The Planning Director has determined that there will not be a significant parking impact on the surrounding neighborhood through a combination of a parking demand management plan, transit availability, and other factors.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 11892 § 18, 1996: prior planning code § 7549)

17.116.300 Parking accommodation requirements for One- and Two-Family Residential Facilities.

The provisions of this Section apply to lots containing One-Family Dwelling, One-Family Dwelling with Secondary Unit, and Two-Family Dwelling Residential Facilities. Exceptions to the provisions of this Section may be approved pursuant to the Regular design review procedure in Chapter 17.136.

A. Required Garage, Carport or Uncovered Parking Location to the Side or Rear of a Residence in Certain Cases. Garages, carports or any uncovered required parking spaces shall be located to the rear or side of any primary Residential Facility and at a minimum of twenty-five (25) feet from the front lot line if:

1. At least sixty percent (60%) of the buildings in the immediate context have garages, carports and uncovered required parking located at a depth of at least twenty-five (25) feet from the front lot line; and

2. On the lot being developed, the difference in elevation of existing grade between the midpoint of the front lot line and the farthest opposite point of the lot depth does not exceed a gradient of twenty percent (20%).

The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street; however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any approval of any required garage, carport, or uncovered parking space. Lots with a front lot line width of less than thirty-five (35) feet are exempt from this Subsection if the garage, carport or uncovered parking space dimensions facing the front lot line equal less than fifty (50) percent of the building elevation facing the front lot line.

B. Garage or Carport Recessed from Front of Residence in Certain Cases. When an attached or detached garage or carport is not subject to Subsection A. of this Section and is located on lots with a street-to-setback gradient of twenty percent (20%) or less and where the face of the primary Residential Facility, including projections at least

eight (8) feet in height and five (5) feet in width, such as covered porches and bay windows, is within twenty-five (25) feet of the front lot line, at least one of the following requirements shall apply:

1. The front of the garage or carport shall be set back a minimum of five (5) feet from such face; or
2. If the garage or carport is located below living space, either:
    a. The front of the garage or carport shall be set back at least eighteen (18) inches from the upper level living space; or
    b. The garage door shall be recessed at least six (6) inches from the surrounding exterior wall surfaces.

C. Maximum Widths of Garages and Carports. Garages and carports shall have a maximum width of twenty-two (22) feet if the front of the garage or carport is located within thirty (30) feet of a street line and shall have a maximum width of thirty (30) feet if located elsewhere. In addition, all attached garages and carports shall have a maximum width not to exceed fifty percent (50%) of the total width of the primary Residential Facility if the front of the garage or carport is located within thirty (30) feet of a street line.

D. Parking Restricted to Garages, Carports, Uncovered Required Parking Spaces or Driveways. Parking on a lot containing primary Residential Facilities may take place only in garages, carports, uncovered required parking spaces, or approved driveways.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12376 (part), 2001)

Chapter 17.117 BICYCLE PARKING REQUIREMENTS

Sections:

Article I. - General Provisions

Article II. - Standards for Required Bicycle Parking

Article III. - Minimum Number of Required Bicycle Parking Spaces

Article I. General Provisions

17.117.010 Title, purpose, and applicability.

17.117.020 Bicycle parking required for new and existing uses.

17.117.030 More than one activity on a lot.

17.117.040 Determination by Director of City Planning.

17.117.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Bicycle Parking Requirements. The purpose of these regulations is to require secure and adequate long term and short term parking for bicycles, thereby promoting alternative transportation, providing additional, more sustainable transportation choices for residents and commuters, and reducing traffic congestion and air pollution. Except as may otherwise be specified in Chapter 17.101E for the D-CE Zones, these requirements shall apply to the indicated activities as specified hereinafter. See Chapter 17.101E Central Estuary District Zones Regulations for bicycle parking regulations specific to Boat and Marine-Related Sales, Rental, Repair and Servicing for the D-CE Central Estuary District Zones.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. 12884 § 2 (part), 2008)

17.117.020 Bicycle parking required for new and existing uses.

A. Bicycle Parking Shall be Provided for New Facilities and Additions to Existing Facilities. Bicycle parking as prescribed hereafter shall be provided for activities occupying facilities, or portions thereof, which are constructed, established, wholly reconstructed, or moved onto a new lot after the effective date of the bicycle parking requirements, or of a subsequent rezoning or other amendment thereto establishing or increasing bicycle parking for such activities, except to the extent that existing bicycle parking exceeds such requirements for any existing facilities. The required amount of new bicycle parking shall be based on the cumulative increase in floor area, or other applicable unit of measurement prescribed hereafter, after said effective date.

B. Bicycle Parking Shall be Provided for Remodels. "Remodel" means any proposed physical improvement of an existing structure which requires a building permit but does not include New Facilities or Additions to Existing Facilities.

1. Remodel projects that are over ten thousand (10,000) square feet and have an estimated construction cost, excluding seismic retrofit costs, greater than two hundred fifty thousand dollars ($250,000.00) shall provide the number of short-term bicycle parking spaces prescribed in Sections 17.117.090 to 17.117.120. This amount shall be adjusted to account for changes in the Building Cost Index for the San Francisco Bay Region, as reported in the Engineering News Record. The adjustment shall be made annually, starting in 2009, no sooner than one year from adoption.
2. Remodel projects that are over fifty thousand (50,000) square feet and have an estimated construction cost, excluding seismic retrofit costs, over one million dollars ($1,000,000.00) shall provide, in addition to short-term bicycle parking, the number of long-term bicycle parking spaces and shower and locker facilities prescribed in Sections 17.117.090 to 17.117.130. This amount shall be adjusted to account for changes in the Building Cost Index for the San Francisco Bay Region, as reported in the Engineering News Record. The adjustment shall be made annually, starting in 2009, no sooner than one year from adoption.

C. Bicycle Parking Shall be Provided for New Living Units in Existing Facilities. If any facility, or portion thereof, which is in existence on the effective date of the bicycle parking requirements, or of a subsequent rezoning or other amendment thereto establishing or increasing bicycle parking requirements for an activity therein, is altered or changed in occupancy so as to result in an increase on the number of residential living units therein, bicycle parking as prescribed hereafter shall be provided for the new units. However, such bicycle parking need be provided only in the amount by which the requirement prescribed hereafter for the facility after said alteration or change exceeds the requirement prescribed hereafter for the facility as it existed prior to such alteration or change; and such new bicycle parking need not be provided to the extent that existing bicycle parking exceeds the latter requirement.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12884 § 2 (part), 2008)

17.117.030 More than one activity on a lot.

Whenever a single lot contains different activities with the same bicycle requirement, the overall requirement shall be based on the sum of all such activities, and the minimum size prescribed hereafter for which any bicycle parking is required shall be deemed to be exceeded for all such activities if it is exceeded by their sum. Whenever a single lot contains activities with different bicycle parking requirements, the overall requirement shall be the sum of the requirements for each activity calculated separately; provided, however, that the minimum size prescribed hereafter for which any bicycle parking is required shall be deemed to be exceeded on said lot for all activities for which the same or a smaller minimum size, expressed in the same unit of measurement, is prescribed, if said minimum size is exceeded by the sum of all such activities on the lot

(Ord. 12884 § 2 (part), 2008)

17.117.040 Determination by Director of City Planning.

In the case of activities for which the Director of City Planning is required to prescribe a number of bicycle parking spaces or for which this Chapter is not clear or does not prescribe a number of spaces, the Director of City Planning shall base his or her written determination on

the number of employees, residents or customers and the nature of operations conducted on the site. Any such written determination shall he subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

(Ord. 12884 § 2 (part), 2008)

Article II. Standards for Required Bicycle Parking

17.117.050 Types of required bicycle parking.

17.117.060 Minimum specifications for required bicycle parking.

17.117.070 Location and design of required bicycle parking.

17.117.050 Types of required bicycle parking.

A. Long-term Bicycle Parking. Each long-term bicycle parking space shall consist of a locker or locked enclosure providing protection for each bicycle from theft, vandalism and weather. Long-term bicycle parking is meant to accommodate employees, students, residents, commuters, and others expected to park more than two hours.

B. Short-term Bicycle Parking. Short-term bi-cycle parking shall consist of a bicycle rack or racks and is meant to accommodate visitors, customers, messengers, and others expected to park not more than two hours.

(Ord. 12884 § 2 (part), 2008)

17.117.060 Minimum specifications for required bicycle parking.

A. All bicycle parking facilities shall be dedicated for the exclusive use of bicycle parking.

B. All required short-term bicycle parking spaces shall permit the locking of the bicycle frame and one wheel with a U-type lock, support the bicycle in a stable position without damage to wheels, frame, or components, and provide two (2) points of contact with the bicycle's frame.

C. All required long-term bicycle parking spaces, with the exception of bicycle lockers, shall permit the locking of the bicycle frame and one wheel with a U-type lock, and support the bicycle in a stable position without damage to wheels, frame, or components.

D. Bicycle parking facilities shall be securely anchored so they cannot be easily removed and shall be of sufficient strength and design to resist vandalism and theft.

E. The overall design and spacing of such facilities shall meet the standards of Section 17.117.070 or as may be modified.

(Ord. 12884 § 2 (part), 2008)

17.117.070 Location and design of required bicycle parking.

Required bicycle parking shall be placed on site(s) as set forth below:

A. A bicycle parking space shall be at least two and a half (2.5) feet in width by six (6) feet in length to allow sufficient space between parked bicycles.

B. An encroachment permit may be required from the City to install bicycle parking in the public right-of-way.

C. Bicycle parking facilities shall not impede pedestrian or vehicular circulation.

   1. Bicycle parking racks located on sidewalks should maintain a minimum of five and one half (5.5) feet of unobstructed pedestrian right-of-way outside the bicycle parking space. For sidewalks with heavy pedestrian traffic, at least seven (7) feet of unobstructed right-of-way is required.

D. Bicycle parking facilities are subject to the following standards:

   1. Racks shall be located with at least thirty (30) inches in all directions from any vertical obstruction, including but not limited to, other racks, walls, and landscaping. General Food Sales, Full Service Restaurant, Limited Service Restaurant and Cafe, and Large-Scale Combined Retail and Grocery Sales Activities are encouraged to locate racks with a thirty-six (36) inch clearance in all directions from any vertical obstruction, including but not limited to, other racks, walls, and landscaping.

   2. A minimum four (4) foot wide aisle of unobstructed space behind all required bicycle parking shall be provided to allow for adequate bicycle maneuvering.

E. Bicycle parking facilities within auto parking facilities shall be protected from damage by cars by a physical barrier such as curbs, wheel stops, poles, bollards, or other similar features capable of preventing automobiles from entering the bicycle facility.

F. Bicycle parking facilities shall be located in highly visible well-lighted areas. In order to maximize security, whenever possible short-term bicycle parking facilities shall be located in areas highly visible from the street and from the interior of the building they serve (i.e. placed adjacent to windows).

G. The location and design of required bicycle parking shall be of a quality, character and color that harmonize with adjoining land uses. Required bicycle parking shall be incorporated whenever possible into building design or street furniture.

H. Long-term bicycle parking shall be covered and shall be located on site or within five hundred (500) feet of the main building entrance unless approved by the Director of City Planning with a written Discretionary Waiver. The main building entrance excludes garage entrances, trash room entrances, and other building entrances that are not publicly accessible.

I. Discretionary Waiver. The long-term bicycle parking location requirement of five hundred (500) feet may be waived in writing by the Director of City Planning when said activities are located within one thousand (1,000) feet of a proposed or existing bike station or similar high-capacity bicycle parking facility. Any determination on such waiver shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

J. Whenever any required bicycle parking is proposed to be provided on a lot other than the lot containing the activity served, the owner or owners of both lots shall prepare and execute to the satisfaction of the City Attorney, and file with the Alameda County Recorder, an agreement guaranteeing that such facilities will be maintained and reserved for the activity served, for the duration of said activity.

K. Short-term bicycle parking shall be placed within fifty (50) feet of the main entrance to the building or commercial use and should be in a well trafficked location visible from the entrance. When the main entrance fronts the sidewalk, the installer may obtain an encroachment permit from the City to install the bicycle parking in the public right-of-way. The main building entrance excludes garage entrances, trash room entrances, and other building entrances that are not publicly accessible.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12884 § 2 (part), 2008)

Article III. Minimum Number of Required Bicycle Parking Spaces

17.117.080 Calculation Rules.

17.117.090 Required bicycle parking—Residential Activities.

17.117.100 Required bicycle parking—Civic Activities.

17.117.110 Required bicycle parking—Commercial Activities.

17.117.120 Required bicycle parking—Industrial and all other Activities.

17.117.130 Required shower and locker facilities.

17.117.140 Additional considerations for variance determination.

17.117.150 Automobile parking credit.

17.117.080 Calculation Rules.

A. If after calculating the number of required bicycle parking spaces a quotient is obtained containing a fraction of one-half (½) or more, an additional space shall be required; if such fraction is less than one-half (½), it may be disregarded.

B. When the bicycle parking requirement is based on number of employees, the number of spaces shall be based on the number of working persons on the lot during the largest shift of the peak season. If the Director of City Planning determines that this number is difficult to verify for a specific facility, then the number of required long-term bicycle parking spaces shall be a minimum of two (2) spaces or five percent (5%) of the amount of required automobile spaces for the proposed facility, whichever is greater.

C. When the bicycle parking requirement is based on number of seats, in the case of pews or similar facilities, each twenty (20) inches shall be counted as one seat.

D. The calculation of short-term bicycle parking may include existing racks that are in the public right-of-way and are within fifty (50) feet of the main entrance.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12884 § 2 (part), 2008)

17.117.090 Required bicycle parking—Residential Activities.

Subject to the calculation rules set forth in Section 17.117.080, the following minimum amounts of bicycle parking are required for all Residential Activities and shall be developed and maintained pursuant to the provisions of Article II of this Chapter:

Type of Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
Permanent and Semi-Transient Residential Activities occupying the specified facilities:		
1) One-Family Dwelling.	No spaces required.	No spaces required.
2) One-Family Dwelling with Secondary Unit.	No spaces required.	No spaces required.
3) Two-Family Dwelling.	No spaces required.	No spaces required.
4) Multifamily Dwelling.		
a) With private garage for each unit.	No spaces required.	1 space for each 20 dwelling units. For D-BV Zones, 1 space for each 15 dwelling units. Minimum citywide requirement is 2 spaces.
b) Without private garage for each unit.	1 space for each 4 dwelling units. For D-BV Zones, 1 space for each 2 dwelling units. Minimum citywide requirement is 2 spaces.	1 space for each 20 dwelling units. For D-BV Zones, 1 space for each 15 dwelling units. Minimum citywide requirement is 2 spaces.
c) Senior Housing.	1 space for each 10 dwelling units. Minimum requirement is 2 spaces.	1 space for each 20 dwelling units. Minimum requirement is 2 spaces.
5) Rooming House.	1 space for each 8 residents. Minimum requirement is 2 spaces.	No spaces required.
6) Mobile Home.	1 per 20 units.	No spaces required.
Residential Care and Emergency Shelter Residential Activities occupying the specified facilities:		
7) Residential Care.	1 space for each 20 employees or 1 space for each 70,000 square feet, whichever is greater. Minimum requirement is 2 spaces.	2 spaces.
8) Emergency Shelter Residential.	1 space for each 20 employees or 1 space for each 70,000 square feet, whichever is greater. Minimum requirement is 2 spaces.	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12884 § 2 (part), 2008)

17.117.100 Required bicycle parking—Civic Activities.

Subject to the calculation rules set forth in Section 17.117.080, the following minimum amounts of bicycle parking are required for the specified Civic Activities and shall be developed and maintained pursuant to the provisions of Article II of this Chapter:

Civic Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
1) Essential Service.	Number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.117.040	Number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.117.040
2) Limited Childcare.		
3) Community Assembly.		
a) Churches, temples, and synagogues.	1 space for each 40 fixed seats, or one space for each 4,000 square feet of floor area, whichever is greater. Minimum requirement is 2 spaces.	1 space for each 40 fixed seats, or one space for each 2,000 square feet of floor area, whichever is greater. Minimum requirement is 2 spaces.
b) Other.	Number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.117.040	Number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.117.040
4) Non-Assembly Cultural.	1 space for each 20 employees. Minimum requirement is 2 spaces.	Spaces for 2% of maximum expected daily attendance.
5) Administrative.	1 space for each 20 employees. Minimum requirement is 2 spaces.	1 space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces.
6) Health Care.	1 space for each 20 employees; or one space for each 70,000 square feet of floor area, whichever is greater. Minimum requirement is 2 spaces.	1 space for each 40,000 square feet of floor area. Minimum requirement is 2 spaces.
7) Special Health Care.		
8) Utility and Vehicular.		

Civic Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
a) Communications equipment installations and exchanges, electrical substations, emergency hospitals operated by a public agency, gas substations, neighborhood newscarrier distribution centers.	No spaces required.	No spaces required.
b) Fire Stations and Police Stations.	1 space for each 10 employees. Minimum requirement is 2 spaces	6 spaces.
c) Post offices, excluding major mail-processing centers.		
d) Publicly operated off-street parking lots and garages available to the general public either without charge or on a fee basis.	No spaces required.	Minimum of 6 spaces or 1 per 20 auto spaces (parking lots excepted).
9) Community Education.		
a) Public, parochial, and private day-care centers for fifteen (15) or more children.	1 space for each 10 employees. Minimum requirement is 2 spaces.	1 space per each 20 students of planned capacity. Minimum requirement is 2 spaces.
b) Public, parochial, and private nursery schools, and kindergartens.	1 space for each 10 employees. Minimum requirement is 2 spaces.	1 space per each 20 students of planned capacity. Minimum requirement is 2 spaces.
c) Public parochial and private elementary, junior high and high schools.	1 space for each 10 employees plus 1 space for each 20 students of planned capacity. Minimum requirement is 2 spaces.	1 space per each 20 students of planned capacity. Minimum requirement is 2 spaces.
10) Extensive impact.		
a) Colleges and universities.	1 space for each 10 employees plus 1 space for each 10 students of planned capacity; or 1 space for each 20,000 square feet of floor area, whichever is greater.	1 space for each 10 students of planned capacity.
b) Railroad and bus terminals.	Spaces for 3.5% of projected maximum daily ridership.	Spaces for 1.5% of projected maximum daily ridership.

Civic Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
c) Other.	Number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.117.040	Number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.117.040

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12884 § 2 (part), 2008)

17.117.110 Required bicycle parking—Commercial Activities.

Subject to the calculation rules set forth in Section 17.117.080, the following amounts of bicycle parking are required for the specified Commercial Activities and shall be developed and maintained pursuant to the provisions of Article II of this Chapter:

Commercial Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
Retail		
1. General Food Sales.	1 space for each 12,000 square feet of floor area. For D-BV Zones, 1 space for each 8,000 square feet of floor area. Minimum citywide requirement is 2 spaces.	1 space for each 2,000 square feet of floor area. Minimum requirement is 2 spaces.
2. Full Service Restaurant		
3. Limited Service Restaurant and Cafe		
4. Fast-Food Restaurant.	1 space for each 12,000 square feet of floor area. For D-BV Zones, 1 space for each 8,000 square feet of floor area. Minimum citywide requirement is 2 spaces.	1 space for each 5,000 square feet of floor area. For D-BV Zones, 1 space for each 3,000 square feet of floor area. Minimum citywide requirement is 2 spaces.
5. Convenience Market		
6. Alcoholic Beverage Sales.		
7. Mechanical or Electronic Games.		
8. General Retail Sales.		
9. Large-scale combined retail and grocery sales.		
10. Consumer Service.		
11. Consumer Cleaning and Repair Service.		
12. Consumer Dry Cleaning Plant.		

Commercial Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
13. Check Cashier and Check Cashing.		
14. General Wholesale Sales.	1 space for each 12,000 square feet of floor area. Minimum requirement is 2 spaces.	1 space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces.
15. Building Material Sales.		
Office		
1. Consultative and Financial Service.	1 space for each 10,000 square feet of floor area. For D-BV Zones, 1 space for each 8,000 square feet of floor area. Minimum citywide requirement is 2 spaces.	1 space for each 20,000 square feet of floor area. For D-BV Zones, 1 space for each 15,000 square feet of floor area. Minimum citywide requirement is 2 spaces.
2. Administrative Commercial.		
3. Business, Communication, and Media Service.		
4. Broadcasting and Recording Service.		
Medical		
1. Medical Service.	1 space for each 12,000 square feet of floor area. Minimum requirement is 2 spaces.	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.
2. Animal Care.		
Auto Related		
1. Automobile and Other Light Vehicle Sales and Rental.	1 space for each 12,000 square feet of floor area. Minimum requirement is 2 spaces.	1 space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces.
2. Automobile and Other Light Vehicle Gas Station and Servicing.	1 space for each 20 employees. Minimum requirement is 2 spaces.	No spaces required.
3. Automotive Repair and Cleaning.		
Other Commercial		
1. Group Assembly.	Number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.117.040	Number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.117.040
2. Personal Instruction and Improvement	Number of spaces to be prescribed by the Director of City Planning	Number of spaces to be prescribed by the Director of City Planning

Commercial Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
Services.	pursuant to Section 17.117.040	pursuant to Section 17.117.040
3. Research Service.	1 space for each 10,000 square feet of floor area. Minimum requirement is 2 spaces.	1 space for each 40,000 square feet of floor area. Minimum requirement is 2 spaces.
4. Transient Habitation.	1 space for each 20 rentable rooms. Minimum requirement is 2 spaces.	1 space for each 20 rentable rooms. Minimum requirement is 2 spaces.
5. Automotive Fee Parking.	1 space for each 20 automobile spaces. Minimum requirement is 2 spaces.	Minimum of 6 spaces or 1 per 20 auto spaces (parking lots excepted)
6. Undertaking Service.	1 space for each 12,000 square feet of floor area. Minimum requirement is 2 spaces.	2 spaces.
7. Animal Boarding.		

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12884 § 2 (part), 2008)

17.117.120 Required bicycle parking—Industrial and all other Activities.

Subject to the calculation rules set forth in Section 17.117.080, the following minimum amounts of bicycle parking are required for the specified Industrial, Agricultural and Extractive Activities and All Other Activities and shall be developed and maintained pursuant to the provisions of Article II of this Chapter:

Type of Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
Industrial		
1. Custom Manufacturing.	1 space for each 15,000 square feet of floor area. Minimum requirement is 2 spaces.	No spaces required.
2. Light Manufacturing.		
3. General Manufacturing.		
4. Heavy High/Impact Manufacturing.		
5. Research and Development	1 space for each 10,000 square feet of floor area. Minimum requirement is 2 spaces.	1 space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces.

Type of Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
6. Construction Operations	1 space for each 15,000 square feet of floor area. Minimum requirement is 2 spaces.	No spaces required.
7. Warehousing, Storage and Distribution.	1 space for each 40,000 square feet of floor area. Minimum requirement is 2 spaces.	No spaces required.
A. General Warehousing, Storage and Distribution		
B. General Outdoor Storage		
C. Self- or Mini-Storage		
D. Container Storage		
E. Automobile Salvage/Junk Yards		
8. Regional Freight Transportation.	1 space for each 40,000 square feet of floor area. Minimum requirement is 2 spaces.	No spaces required.
A. Seaport		
B. Rail yard		
9. Trucking and Truck-Related.	1 space for each 40,000 square feet of floor area. Minimum requirement is 2 spaces.	No spaces required.
A. Freight/Truck Terminal		
B. Truck Yard		
C. Truck Weigh Stations		
D. Truck and Other Heavy Vehicle Sales, Rental and Leasing		
E. Truck and Other Heavy Vehicle Service, Repair and Refueling		
10. Recycling and Waste-Related:	1 space for each 15,000 square feet of floor area. Minimum requirement is 2 spaces.	No spaces required.
A. Satellite Recycling Collection Centers		
B. Primary Recycling Collection Centers		
C. Intermediate Recycling Processing Facility		

Type of Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
11. Hazardous Material Production, Storage and Waste Management-Related:	1 space for each 15,000 square feet of floor area. Minimum requirement is 2 spaces.	No spaces required.
A. Small Scale Transfer and Storage Hazardous Waste Management		
B. Industrial Transfer/Storage Hazardous Waste Management		
C. Residual Repositories Hazardous Waste Management		
D. Oil and Gas Storage		
Agricultural and Extractive		
1. Plant Nursery.	Number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.117.040	Number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.117.040
2. Limited Agriculture.	No spaces required.	No spaces required.
3. Extensive Agriculture.		
4. Mining and Quarrying Extractive.		

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12884 § 2 (part), 2008)

Editor's note—

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, changed the title of Section 17.117.120 from "Required bicycle parking—Industrial, manufacturing and all other activities" to "Required bicycle parking—Industrial and all other activities." The historical notation has been preserved for reference purposes.

17.117.130 Required shower and locker facilities.

Subject to the calculation rules set forth in Section 17.117.080, the following amounts of shower facilities and lockers are required per gender for the specified activities and shall be developed and maintained pursuant to the provisions of Article II of this Chapter:

Type of Activity	Shower Requirement (per gender)	Locker Requirement
Residential	None required	None required
Civic	None required	None required
Commercial: Less than 150,000 sf. of floor area	None required	None required
Commercial: 150,000 sf. of floor area or greater	A minimum of two (2) showers per gender plus one (1) shower per gender for each 150,000 sf. above 150,000 sf.	Four (4) lockers per shower
Industrial	None required	None required
Agricultural and Extractive	None required	None required

(Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12884 § 2 (part), 2008)

17.117.140 Additional considerations for variance determination.

A variance may be granted if the applicant can make the variance findings contained in Section 17.148.050. In making a variance determination, the following additional considerations should be taken into account:

1. The variance, if granted, will not be contrary to the policies included in the Bicycle Master Plan.
2. Consideration can be afforded to a proposal if incorporation of the bicycle parking would be detrimental to other bicycle or pedestrian facilities.
3. Consideration can be afforded to a proposal with a site access that is in excess of the street grade criteria established by the Bicycle Master Plan.
4. In consideration of what is physically feasible, the proposal meets as many of the bicycle parking requirements as possible to provide a form of storing bicycles in a safe, secure and accessible manner.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12884 § 2 (part), 2008)

17.117.150 Automobile parking credit.

The total number of required off-street automobile parking spaces may be reduced at the ratio of one automobile space for each six (6) bicycle spaces provided in excess of the requirements in this Chapter. The bicycle parking provided for this automobile parking credit shall include both long-term and short-term bicycle parking in proportion to the minimum long-term and short-term requirements for the given project. The total number of required off-street automobile parking spaces cannot be reduced by more than five percent (5%).

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12884 § 2 (part), 2008)

Chapter 17.118 RECYCLING SPACE ALLOCATION REQUIREMENTS

Sections:

17.118.010 Title, purpose, and applicability.

17.118.020 Affected projects.

17.118.030 Recycling space allocation requirements.

17.118.040 Review procedures.

17.118.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Recycling Space Allocation Requirements. The purpose of these provisions is to prescribe standards by which to ensure consistency with the requirements of Chapter 18 of Division 30 of the Public Resources Code, commencing with Section 42900, known as the California Solid Waste Reuse and Recycling Access Act of 1991, and to ensure the provision of adequate, accessible, and convenient locations for the collection and storage of recyclable materials within containers and enclosures which are compatible with surrounding land uses and structures. These standards shall apply to certain affected development projects as specified in Section 17.118.020.

(Ord. 11807 § 1 (part), 1995: prior planning code § 7600)

17.118.020 Affected projects.

The following development projects shall provide adequate, accessible, and convenient areas for collecting and loading recyclable materials:

A. Any new residential development of five units or more where solid waste is collected and loaded in a location serving five (5) or more living units, or new commercial or industrial development including marinas, for which a building permit is required, and said permit application is submitted on or after the effective date of these regulations;

B. Any new public facility where solid waste is collected and loaded and any improvements made to areas of an existing public facility used for collecting and loading solid waste;

C. Any existing residential development project of five units or more where solid waste is collected and loaded in a location serving five (5) or more living units, or existing commercial or industrial development including marinas, for which an application for a building permit is submitted on or after September 1, 1994 for an alteration(s) which adds thirty percent (30%) or more to the existing gross floor area of the development project;

D. Any existing residential development project of five (5) units or more where solid waste is collected and loaded in a location serving five or more living units, or existing commercial or industrial development or marina, for which multiple applications for building permits are submitted within a twelve (12) month period on or after September 1, 1994, which collectively add thirty percent (30%) or more to the existing gross floor area of the development project;

E. Any existing residential development project of five (5) units or more where solid waste is collected and loaded in a location serving five (5) or more living units, or existing commercial or industrial development or marina, occupied by multiple tenants, one of which submits within a twelve (12) month period an application or a series of applications for building permits for alterations which singly or collectively add thirty percent (30%) or more to the existing floor area of that portion of the project which said tenant leases. In such cases, adequate areas for the collection and loading of recyclable materials adequate in number and capacity to serve that portion of the development project said tenant leases shall be provided.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 11807 § 1 (part), 1995: prior planning code § 7601)

17.118.030 Recycling space allocation requirements.

The design, location and maintenance of recycling collection and storage areas must substantially comply with the provisions of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas," as they may be amended. In addition, space devoted to the collection and storage of recyclable materials shall be adequate in capacity, number and distribution to serve the affected development.

A. Space allocated for recycling collection and storage areas within affected residential projects shall be provided in the amount of two cubic feet of storage and collection space per residential unit, with a minimum requirement that not less than ten cubic feet be provided.

B. Space allocated for recycling collection and storage areas within affected commercial, industrial and public facility projects shall be provided in the amount of two cubic feet of storage and collection space per each one thousand (1,000) square feet, or portion thereof, of the total gross building square footage, with a minimum requirement that not less than ten cubic feet be provided.

(Ord. 11807 § 1 (part), 1995: prior planning code § 7602)

17.118.040 Review procedures.

Plans indicating the proposed design, size and location of both new and existing recycling and trash enclosures shall be submitted to the Director of City Planning to be reviewed concurrently during the appropriate review procedure required for the proposed development. For those development projects not requiring planning applications but for which building permits are required, plans indicating the design, size and location of recycling and trash enclosures shall be submitted to the Building Official, to be included with the building permit plan check submittal for the proposed development project.

(Ord. 11807 § 1 (part), 1995: prior planning code § 7603)

Chapter 17.120 PERFORMANCE STANDARDS

Sections:

17.120.010 Title, purpose, and applicability.

17.120.020 Existing activities.

17.120.030 Proof of compliance.

17.120.040 Measurements.

17.120.050 Noise.

17.120.060 Vibration.

17.120.070 Smoke.

17.120.080 Particulate matter and air contaminants.

17.120.090 Odor.

17.120.110 Humidity, heat, cold, and glare.

17.120.120 Electrical disturbance.

17.120.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Performance Standards. The purpose of these standards is to control dangerous or objectionable environmental effects of all activities. These standards shall apply to the indicated activities in the zones and situations specified herein.

(Ord. 11895 § 6, 1996: prior planning code § 7700)

17.120.020 Existing activities.

Activities existing on the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto applying more restrictive performance standards to such activities, shall not be required to change their operations to comply with the performance standards. However, their operations shall not be so changed as to result in a greater degree of nonconformity with respect to such standards, except as otherwise authorized under the development agreement procedure in Chapter 17.138. For existing activities meeting the definition specified in Section 17.114.080C., an expansion greater than twenty percent (20%) of production (e.g. non-administrative) floor area is one example of a change in operations that shall be considered an increase in the degree of nonconformity.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2 (part), 2008; Prior planning code § 7701)

17.120.030 Proof of compliance.

The Director of City Planning may require the applicant for a building permit or business license to submit such information with respect to proposed machinery, processes, products, or

environmental effects as may be necessary to demonstrate the ability of the proposed activities to comply with applicable performance standards. Such required information may include reports to expert consultants. Any such requirement, and any determination by the Director as to sufficiency of proof, may be appealed pursuant to the administrative appeal procedure in Chapter 17.132.

(Prior planning code § 7703)

17.120.040 Measurements.

When measurements are necessary, levels of dangerous or objectionable environmental effects shall be measured in accordance with accepted engineering practice.

(Prior planning code § 7704)

17.120.050 Noise.

All activities shall be so operated that the noise level inherently and regularly generated by these activities across real property lines shall not exceed the applicable values indicated in Subsection A., B., or C. as modified where applicable by the adjustments indicated in Subsection D. or E. Further noise restrictions are outlined in Section 8.18.010 of the Oakland Municipal Code.

A. Residential Zone Noise Level Standards. The maximum allowable noise levels received by any Residential Zone are described in Table 17.120.01.

Table 17.120.01 establishes the maximum allowable receiving noise levels:

TABLE 17.120.01

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, RESIDENTIAL AND CIVIC

Cumulative Number of Minutes in Either the Daytime or Night time One Hour Time Period	Daytime 7 a.m. to 10 p.m.	Nighttime 10 p.m. to 7 a.m.
20	60	45
10	65	50
5	70	55
1	75	60
0	80	65

B. Commercial Noise Level Standards. The maximum allowable noise levels received by any land use activity within any Commercial Zone (including the Housing and Business Mix HBX Zones, and the Central Estuary District D-CE-3 and D-CE-4 Zones) are described in Table 17.120.02.

Table 17.120.02 establishes the maximum allowable receiving noise levels:

TABLE 17.120.02

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS

Cumulative Number of Minutes in Either the Daytime or Nighttime One Hour Time Period	Anytime
20	65
10	70
5	75
1	80
0	85

C. Industrial, Agricultural and Extractive Noise Level Standards. The maximum allowable noise levels received by any land use activity within any Industrial Zone are described in Table 17.120.03.

Table 17.120.03 establishes the maximum allowable receiving noise levels:

TABLE 17.120.03

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, dBA

Cumulative Number of Minutes in Any One Hour Time Period	Anytime
20	70
10	75
5	80
1	85
0	90

D. In the event the measured ambient noise level exceeds the applicable noise level standard in any category above, the stated applicable noise level shall be adjusted so as to equal the ambient noise level.

E. Each of the noise level standards specified above in Subsections A., B., and C. shall be reduced by five (5) dBA for a simple tone noise such as a whine, screech, or hum, noise consisting primarily of speech or music, or for recurring impulse noise such as hammering or riveting.

F. Noise Measurement Procedures. Utilizing the "A" weighing scale of the sound level meter and the "slow" meter response (use "fast" response for impulsive type sounds), the noise level shall be measured at a position or positions at any point on the receiver's property. In general, the microphone shall be located four (4) to five (5) feet above the ground; ten (10) feet or more from the nearest reflective surface, where possible. However, in those cases where another elevation is deemed appropriate, the latter shall be utilized. If the noise complaint is related to interior noise levels, interior noise measurements shall be made within the affected residential unit. The measurements shall be made at a point at least four (4) feet from the wall, ceiling or floor nearest the noise source, with windows in the normal seasonal configuration.

G. Temporary Construction or Demolition Which Exceed the Following Noise Level Standards.

1. The daytime noise level received by any Residential, Commercial, or Industrial land use which is produced by any nonscheduled, intermittent, short-term construction or demolition operation (less than ten (10) days) or by any repetitively scheduled and relatively long-term construction or demolition operation (ten (10) days or more) shall not exceed the maximum allowable receiving noise levels described in Table 17.120.04.

Table 17.120.04 establishes the maximum allowable receiving noise levels:

TABLE 17.120.04
MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, dBA

	Daily 7 a.m. to 7 p.m.	**Weekends 9 a.m. to 8 p.m.**
Short-Term Operation		
Residential	80	65
Commercial, Industrial	85	70
Long-Term Operation		
Residential	65	55
Commercial, Industrial	70	60

2. The nighttime noise level received by any land use and produced by any construction or demolition activity between weekday hours of seven (7) p.m. and seven (7) a.m. or between eight (8) p.m. and nine (9) a.m. on weekends and federal holidays shall not exceed the applicable nighttime noise level standards outlined in this Section.

H. Residential Air Conditioning Units and Refrigeration Systems. The exterior noise level associated with a residential air conditioning unit or refrigeration systems shall not exceed fifty (50) dBA, with the exception that systems installed prior to the effective date of this Section shall not exceed fifty-five (55) dBA.

I. Commercial Refrigeration Units. Stationary and mobile commercial refrigeration units shall not produce a noise level greater than the noise level standards set forth in this Section. Between the hours of ten (10) p.m. and seven (7) a.m., a mobile refrigeration unit shall not be located within two hundred (200) feet of any Residential Zone boundary unless such unit is within an enclosure which reduces the noise level outside the enclosure to no more than sixty (60) dBA and reduces vibration to a level below the vibration perception threshold set forth in Section 17.120.060.

J. Commercial Exhaust Systems. Unnecessary noise caused by exhaust from ventilation units, or other air control device shall not produce a noise level greater than the noise level standards set forth in this Section between the hours of ten p.m. and seven a.m. and shall not be located within two hundred (200) feet of any Residential Zone boundary unless such unit is within an enclosure which reduces the noise level outside the enclosure to no more than sixty (60) dBA and reduces vibration to a level below the vibration perception threshold set forth in Section 17.120.060.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. 12875 § 2(part), 2008; Ord. 12872 § 4 (part), 2008; Ord. 11895 § 7, 1996: prior planning code § 7710)

17.120.060 Vibration.

All activities, except those located within the M-40 Zone, the D-CE-1, D-CE-2, D-CE-5, or D-CE-6 Zones, or in the D-CO, IG, M-30, or CIX Zones more than four hundred (400) feet from any Residential Zone boundary, shall be so operated as not to create a vibration which is perceptible without instruments by the average person at or beyond any lot line of the lot containing such activities. Ground vibration caused by motor vehicles, trains, and temporary construction or demolition work is exempted from this standard.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. 12875 § 2(part), 2008; Ord. 11895 § 8, 1996: prior planning code § 7711)

17.120.070 Smoke.

All Commercial and Industrial Activities located in a Residential Zone or in any HBX, D-CO, D-CE, CIX, or M Zone shall be so operated as not to emit visible smoke as dark as Ringelmann number 2 or its equivalent opacity for more than three minutes in any one-hour period, and visible smoke as dark as Ringelmann number 1 or its equivalent opacity for more than an additional seven minutes in any one-hour period. Darker or more opaque smoke is prohibited at any time.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A, 2008; Ord. 12875 § 2(part), 2008; prior planning code § 7712)

17.120.080 Particulate matter and air contaminants.

All Commercial and Industrial Activities which are located in a Residential Zone or the M-20, S-3, CIX, HBX, D-CO, D-CE-3, or D-CE-4 Zones, or which are located in the D-CE-1, D-CE-2, D-CE-5, D-CE-6, M-30, M-40, IG, or IO Zones within four hundred (400) feet of any boundary of a Residential Zone, shall be so operated as not to emit particulate matter of air contaminants which are readily detectable without instruments by the average person at or beyond any lot line of the lot containing such activities.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2(part), 2008; prior planning code § 7713)

17.120.090 Odor.

When located in the zones specified below, all Commercial and Industrial Activities shall be so operated as not to emit matter causing unpleasant odors which are perceptible by the average person at the following point of determination described in Table 17.120.05. Table 17.120.05 establishes the maximum allowable receiving noise level standards.

Table 17.120.05: Points of Determination for Odor

Zone in Which Activities are Located	Point of Determination
Any Residential Zone, M-20, S-3, the HBX Zones, D-CE-3, D-CE-4, CIX-1, CIX-1A, CIX-1B, CIX-1C, or CIX-1D Zone.	At or beyond any lot line of the lot containing the activities.
D-CO, D-CE-1, D-CE-2, D-CE-5, D-CE-6, M-30, M-40, CIX-2, IG or IO Zones if within four hundred (400) feet of any boundary of a	At or beyond any boundary of a Residential Zone.

Residential Zone.	

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2(part), 2008; prior planning code § 7714)

17.120.110 Humidity, heat, cold, and glare.

When located in the zones specified below, all Commercial and Industrial Activities shall be so operated as not to produce humidity, heat, cold, or glare which is perceptible without instruments by the average person at the points of determination described in Table 17.120.06. Table 17.120.06 establishes the maximum allowable receiving noise level standards.

Table 17.120.06: Points of Determination for Humidity, Heat, Cold and Glare

Zone in Which Activities are Located	Point of Determination
Any Residential Zone, M-20, S-3, HBX Zones, D-CE 3, D-CE-4, CIX-1, CIX-1A, CIX-1B, CIX-1C, or CIX-1D Zones.	At or beyond any lot line of the lot containing the activities.
D-CO, D-CE-1, D-CE-2, D-CE-5, D-CE-6, M-30, M-40, CIX-2, IG or IO Zones if within four hundred (400) feet of any boundary of a Residential Zone.	At or beyond any boundary of a Residential Zone.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2(part), 2008; prior planning code § 7715)

17.120.120 Electrical disturbance.

All Commercial and Industrial Activities located in a Residential Zone or the M-20, S-3, HBX, D-CE-3, D-CE-4, CIX-1, CIX-1A, CIX-1B, CIX-1C, or CIX-1D Zone, or located in the D-CO, D-CE-1, D-CE-2, D-CE-5, D-CE-6, CIX-2, IG, M-30, or M-40 Zones and within four hundred (400) feet of any boundary of a Residential Zone, shall be so operated as not to cause electrical disturbance adversely affecting the operation of any equipment on any other lot.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2(part), 2008; prior planning code § 7716)

Chapter 17.124 LANDSCAPING AND SCREENING STANDARDS

Sections:

17.124.010 Title, purpose, and applicability.

17.124.020 Required landscape plan for new residential units and certain additions to Residential Facilities.

17.124.025 Required landscape plan for new Nonresidential Facilities and certain additions to Nonresidential Facilities.

17.124.030 Residential landscape requirements for street frontages.

17.124.040 Residential landscape requirements for downslope lots.

17.124.045 Trash and Utility Screening.

17.124.050 Assurance of landscaping completion.

17.124.060 Maintenance.

17.124.070 Required materials and opacity.

17.124.080 Combination of materials.

17.124.090 Reference level for prescribed heights.

17.124.100 Exceptions to requirements.

17.124.110 Frequently planted tree species list for Oakland.

17.124.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Standards for Required Landscaping and Screening. The purpose of these provisions is to prescribe standards for development and maintenance of planting, fences, and walls, for the conservation and protection of property through provision of barriers against traffic, trespass, noise, heat, glare, and dust, and through improvement of the appearance of individual properties, neighborhoods, and the City. These standards shall apply to all landscaping and screening required by this Chapter and other provisions of the zoning regulations.

(Ord. 12376 § 3 (part), 2001: prior planning code § 8100)

17.124.020 Required landscape plan for new residential units and certain additions to Residential Facilities.

Submittal and approval of a landscape plan for the entire site is required for the establishment of a new residential unit, excluding Secondary Units of five hundred (500) square feet or less, and for additions to Residential Facilities of over five hundred (500) square feet. The landscape plan and the plant materials installed pursuant to the plan shall conform with all provisions of this Chapter, Title 12 Street, Sidewalks and Public Spaces and the following:

A. Landscape plans for projects involving grading, rear walls on downslope lots requiring conformity with the screening requirements in Section 17.124.040, or vegetation management prescriptions in the S-11 Zone shall show proposed landscape treatments for all graded areas, rear wall treatments, and vegetation management prescriptions.

B. Within the portions of Oakland northeast of the line formed by State Highway 13 and continued southerly by Interstate 580, south of its intersection with State Highway 13, all plant materials on submitted landscape plans shall be fire resistant and, to the satisfaction of the Director of City Planning, a substantial portion of the planted area shown on submitted landscape plans shall be drought tolerant plant materials. The City Planning Department shall maintain lists of plant materials considered fire resistant and drought tolerant.

C. All landscape plans shall show proposed methods of irrigation. The methods shall ensure adequate irrigation of all plant materials for at least one growing season.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001)

17.124.025 Required landscape plan for new Nonresidential Facilities and certain additions to Nonresidential Facilities.

Submittal and approval of a landscape plan for the entire site and street frontage is required for the establishment of a new Nonresidential Facility and for additions to Nonresidential Facilities of over one thousand (1,000) square feet. The landscape plan and the plant materials installed pursuant to the plan shall conform with all provisions of this Chapter, Title 12 Street, Sidewalks and Public Spaces and the standards for required landscaping and screening, including the following:

A. 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 (6½) feet, street trees shall be provided to the satisfaction of the Director of City Planning, as provided in Section 17.124.110. Proposed street trees shall be selected from the City's Frequently Planted Tree Species List. Alternative species may be approved by the Director of City Planning. Selection of street tree species shall be based upon compatibility with the existing tree plantings on the street, the mature size of the tree, space available for the tree to grow, the presence of underground and overhead utility lines, utility poles, streetlights, driveway approaches and fire hydrants.

B. All landscape plans shall show proposed methods of irrigation. The methods shall ensure adequate irrigation of all plant materials for at least one growing season.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

17.124.030 Residential landscape requirements for street frontages.

All areas between a primary Residential Facility and abutting street lines shall be fully landscaped, plus any unpaved areas of abutting rights-of-way of improved streets or alleys, provided, however, on streets without sidewalks, an unplanted strip of land five (5) feet in width shall be provided within the right-of-way along the edge of the pavement or face of curb, whichever is applicable. Existing plant materials may be incorporated into the proposed landscaping if approved by the Director of City Planning.

A. In addition to the general landscaping requirements set forth above, a minimum of one (1) fifteen-gallon tree, or substantially equivalent landscaping consistent with City policy and as approved by the Director of City Planning, shall be provided for every twenty-five (25) feet of street frontage. 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 (6½) feet, the trees to be provided shall include street trees to the satisfaction of the Director of City Planning. Proposed street trees shall be selected from the City's Frequently Planted Tree Species List, as provided in Section 17.124.110. Alternative species may be approved by the Director of City Planning. Selection of street tree species shall be based upon compatibility with the existing tree plantings on the street, the mature size of the tree, space available for the tree to grow, the presence of underground and overhead utility lines, utility poles, streetlights, driveway approaches and fire hydrants.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12872 § 4 (part), 2008; Ord. 12376 § 3 (part), 2001)

17.124.040 Residential landscape requirements for downslope lots.

On downslope lots where the height of the rear elevation of the primary Residential Facility exceeds twenty-eight (28) feet, landscaping shall be planted to screen the rear face of the building and shall be:

A. Planted to number a minimum of one (1) 15-gallon tree or five (5) five-gallon shrubs, or substantially equivalent landscaping as approved by the Director of City Planning for each fifteen (15) feet of lot width, measured at the rear face of the residence; and

B. Selected and maintained such that it is sufficient in size within five (5) years of planting to screen the lower ten (10) feet of the structure.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12376 § 3 (part), 2001)

17.124.045 Trash and Utility Screening.

A. Screening of Utility Meters. All utility meters shall be located either within a box set within a building, on a non-street facing elevation, or screened with vegetation.

B. Screening of Trash Containers. All trash containers shall be located in a storage area that is screened from the street and adjacent properties by a wall, fence, or dense landscaping with a minimum height of four (4) feet.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.124.050 Assurance of landscaping completion.

The trees, shrubs and landscape materials required by this Chapter must either be planted or a bond, cash deposit, or letter of credit provided for the planting of the landscaping before the certificate of occupancy will be issued. The amount of such bond, cash deposit, or letter of credit shall equal the greater of two thousand five hundred dollars ($2,500.00) or the estimated cost of the required landscaping, based on a licensed contractor's bid.

(Ord. 12376 § 3 (part), 2001)

17.124.060 Maintenance.

All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required fences and walls shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

(Ord. 12376 § 3 (part), 2001: prior planning code § 8101)

17.124.070 Required materials and opacity.

Required landscaping, fences, and walls shall be composed of the materials prescribed in other provisions of the zoning regulations.

A. Where trees are required, they shall be of a species, degree of maturity, and spacing prescribed by the Director of City Planning, subject to the right of appeal from such determination pursuant to the administrative appeal procedure in Chapter 17.132

B. Where dense landscaping to a specified height is prescribed, the landscaping shall be of a type which will provide a year-round barrier to the prescribed height, and shall be so spaced that vision of objects on the opposite side is effectively eliminated.

C. Where a grille fence or wall is prescribed, it shall have a uniform screen or other open-work design, with an opacity of not less than twenty-five (25) and not more than seventy-five percent (75%).

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12376 § 3 (part), 2001: prior planning code § 8102)

17.124.080 Combination of materials.

Whenever two (2) or more alternative types of landscaping, fences, or walls are prescribed, they may be provided singly or in any combination.

(Ord. 12376 § 3 (part), 2001: prior planning code § 8103)

17.124.090 Reference level for prescribed heights.

The prescribed heights of required landscaping, fences, or walls shall be measured above the actual adjoining level of finished grade, except that where parking, loading, storage, or similar areas, or usable open space, are located above finished grade the height of landscaping, fences, or walls required to screen such areas or space shall be measured above the adjoining level thereof.

(Ord. 12376 § 3 (part), 2001: prior planning code § 8104)

17.124.100 Exceptions to requirements.

The landscaping and screening requirements set forth in other provisions of the zoning regulations shall be subject to the following exceptions:

A. Equivalent Screening on Abutting Lot. Prescribed fences, walls, or dense landscaping need not be provided along a lot line if a building, fence, wall, or dense landscaping of

at least equivalent height, opacity, and maintenance exists immediately abutting and on the opposite side of said lot line.

B. Window on Abutting Lot. Prescribed fences, walls, or dense landscaping need not be higher than three and one-half (3½) feet when located opposite and within three (3) feet of any window in a Residential Facility on an abutting lot, other than a window in a basement or cellar, or within three (3) feet of any portion of the same story of the wall containing such window and lying within ten (10) feet in either direction from said window. Landscaping or a fence or wall shall be considered opposite such a window or portion of wall whenever it would be intersected by a horizontal plane drawn from the wall perpendicularly to the window.

C. Adjacent to Excavated Parking or Other Area. Where a parking, loading, storage, or similar area, or usable open space, is excavated below adjoining finished grade, the depth of excavation may be deducted there from the prescribed height of fences, walls, or landscaping required to screen the area or space.

D. Height Within Required Minimum Yard or Court. Required fences, walls, or dense landscaping need not be higher than three and one-half (3½) feet in that portion of any required minimum yard which lies within ten (10) feet of any street line. The height of fences, walls, and dense landscaping shall be limited within all required minimum yards and courts by the applicable provisions of Section 17.108.140

E. General Exceptions to Prescribed Heights. The prescribed heights of dense landscaping shall indicate the height to be attained within three (3) years after planting. The height at time of planting may be not more than two (2) feet lower for dense landscaping required to be taller than five (5) feet, and not more than one (1) foot lower for dense landscaping for which a height of less than five (5) feet is prescribed. An earthen berm not taller than two (2) feet may count toward the prescribed height of any fence, wall, or dense landscaping.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12553 § 3 (part), 2003; Ord. 12376 § 3 (part), 2001: prior planning code § 8110)

17.124.110 Frequently planted tree species list for Oakland.

			1	2
No.	**Botanical Name**	**Common Name**	**Size**	**H × S**
1.	Arbutus unedo	Strawberry Tree	S	25×25
2.	Cercis canadensis	Eastern Redbud	S	25×25
3.	Lagerstroemia indica X L. fauriei	Crape Myrtle	S	30×20
4.	Photinia fraseri	Photinia	S	20×15
5.	Prunus cerasifera 'Thundercloud'	Purple Leaf Plum	S	30×20
6.	Pyrus kawakamii	Evergreen Pear	S	25×30
7.	Rhus lancea	African Sumac	S	20×20
8.	Tristania laurina 'Elegant'	Water Gum	S	25×20

9.	Acer buergeranum	Trident Maple	M	30×25
10.	Aesculus carnea 'Briotii'	Red Horsechestnut	M	40×35
11.	Eriobotrya deflexa	Bronze Loquat	M	20×20
12.	Geijera parviflora	Australian Willow	M	30×30
13.	Ginkgo biloba 'Saratoga' or 'Autumn Gold'	Maidenhair Tree	M	35×30
14.	Koelreuteria bipinnata	Chinese Flame Tree	M	30×30
15.	Koelreuteria paniculata	Golden Rain Tree	M	30×30
16.	Laurus nobilis 'Saratoga'	Saratoga Laurel	M	40×20
17.	Magnolia grandiflora 'Saint Mary'	Saint Mary Magnolia	M	20×20
18.	Maytenus boaria 'Green Showers'	Mayten Tree	M	30×25
19.	Metrosideros excelsus	New Zealand Christmas Tree	M	30×30
20.	Olea europa 'Swan Hill'	Olive	M	40×40
21.	Pyrus calleryana 'Aristocrat'	Aristocrat Pear	M	40×30
22.	Carpinus betulus 'Fastigiata'	European Hornbem	L	50×40
23.	Fraxinus oxycarpa 'Raywood'	Raywood Ash	L	35×25
24.	Gliditsia triacanthos inermis 'Shademaster'	Thornless Honey Locust	L	40×30
25.	Nyssa sylvatica	Sour Gum or Tupelo	L	50×25
26.	Pistacia chinensis 'Keith Davey' or 'Pearl Street'	Chinese Pistache	L	50×30
27.	Platanus acerifolia 'Yarwood'	London Plane	L	70×50
28.	Podocarpus gracilior	African Fern Pine	L	30×20
29.	Quercus rubra	Red Oak	L	50×40
30.	Quercus coccinea	Scarlet Oak	L	75×50

1. Size: (S) Small, (M) Medium, (L) Large
2. H × S: Height by Spread

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12999, § 4(Exh. A), 3-16-2010)

Chapter 17.126 USABLE OPEN SPACE STANDARDS

Sections:

17.126.010 Title, purpose, and applicability.

17.126.020 Substitution of private space for group space.

17.126.030 Group usable open space.

17.126.040 Private usable open space.

17.126.050 Plazas for Nonresidential Facilities.

17.126.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Standards for Required Usable Open Space. The purpose of these provisions is to prescribe standards for the development and maintenance of open areas which serve the need for leisure, recreation, and space. These standards shall apply to all usable open space required by other provisions of the zoning regulations, except within the S-17 Downtown Residential Open Space Combining Zone.

(Ord. 12343 § 3, 2001: prior planning code § 8300)

17.126.020 Substitution of private space for group space.

Each one (1) square foot of private usable open space conforming to the provisions of Section 17.126.040 shall be considered equivalent to two (2) square feet of required group usable open space and may be so substituted, subject to any minimum requirements for actual group space prescribed in the applicable individual zone regulations.

(Prior planning code § 8301)

17.126.030 Group usable open space.

All required group usable open space shall be permanently maintained, shall be located on the same lot as the living units it serves, and shall conform to the following standards:

A. **Usability.** A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt, or other serviceable, dust-free surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected wherever necessary for space on a roof, but shall not be more than the minimum height required by the Oakland Building Code.

B. **Location.** The space may be located anywhere on the lot within twenty (20) feet of the living units served, except that not more than twenty-five percent (25%) of the required area shall be located on the roof of any building other than an attached garage or carport, with the exception of property located within the S-15 Zone where the space may be located anywhere on the lot and may be located entirely on the roof of any building on the site.

C. **Size and Shape.** An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than fifteen (15) feet. When space is located on a roof, the area occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the above dimension.

D. Accessibility. The space shall be accessible to all the living units on the lot. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room.

E. **Openness.** There shall be no obstructions above the space except for devices to enhance its usability.

F. **Enclosure.** Ground-level space shall be screened from abutting lots, streets, alleys, and paths, and abutting private ways described in Section 17.106.020, by a building wall, by dense landscaping not less than three and one-half (3½) feet high and not less than three (3) feet wide, or by a solid or grille, lumber or masonry fence or wall not less than three and one-half (3½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said Chapter. Fences and walls shall not be so constructed as to interfere with the access required by applicable fire prevention regulations.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 11892 § 20, 1996; prior planning code § 8310)

17.126.040 Private usable open space.

All required private usable open space shall be permanently maintained; shall be located, except as otherwise provided in Subsection B. of this Section, on the same lot as the living unit it serves; and shall conform to the following standards:

A. **Usability.** A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt, or other serviceable, dust-free surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected wherever necessary for space on a roof or balcony, but shall not be more than the minimum height required by the Oakland Building Code.

B. **Location.** The space may be located anywhere on the lot, except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five (5) feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All spaces shall be adjacent to, and not more than four (4) feet above or below the floor level of, the living unit served.

C. **Size and Shape.** An area of contiguous ground-level space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than ten (10) feet. An area of above-ground-level space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than five (5) feet. When space is located on a roof, the area occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the above dimension.

D. **Accessibility.** The space shall be accessible to only one living unit by a doorway to a habitable room or hallway.

E. **Openness.** There shall be no obstructions over ground-level space except for devices to enhance its usability and except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.

F. **Enclosure.** Ground-level space shall be screened from abutting lots, streets, alleys, and paths, from abutting private ways described in Section 17.106.020, and from other areas on the same lot by a building wall, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide, or by a solid or grille, lumber or masonry fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said Chapter. However, when such screening would impair a beneficial outward and open orientation or view, with no building located opposite and within fifty (50) feet from such required screening, as measured perpendicularly therefrom in a horizontal plane, the above prescribed height may be reduced to three and one-half (3½) feet. Fences and walls shall not be so constructed as to interfere with the access required by applicable fire prevention regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; prior planning code § 8320)

17.126.050 Plazas for Nonresidential Facilities.

Every plaza required for Nonresidential Facilities shall be permanently maintained, shall be located on the same lot as the facilities for which it is provided, and shall conform to the following standards:

A. **Usability.** The plaza shall have an appropriate dust-free surface, and shall be suitable for walking, sitting, and similar activities. Off-street parking and loading areas, driveways, and service areas shall not be counted as plazas. At least twenty-five percent (25%) of the plaza area shall be occupied by planting, sculpture, pools, or similar features.

B. **Location and Visibility.** The plaza shall be located not more than five (5) feet above the sidewalk of the abutting street. It shall be clearly visible from the sidewalk.

C. **Size and Shape.** The plaza shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than thirty (30) feet.

D. **Accessibility.** The plaza shall be directly and conveniently accessible to the general public during all business hours common in the area.

E. **Openness.** There shall be no obstructions above the plaza except for awnings, trellises, or similar devices to enhance its usability.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 8335)

Chapter 17.128 TELECOMMUNICATIONS REGULATIONS

Sections:

17.128.010 Title, purpose, and applicability.

17.128.020 Exclusions.

17.128.025 Restrictions on Telecommunications Facilities.

17.128.030 Removal of telecommunications facilities.

17.128.040 Supplemental definitions.

17.128.050 Micro Telecommunications Facilities.

17.128.060 Mini Telecommunications Facilities.

17.128.070 Macro Telecommunications Facilities.

17.128.080 Monopole Telecommunications Facilities.

17.128.090 Tower Telecommunications Facilities.

17.128.100 Regulations apply to parks and other similar open spaces.

17.128.110 Site location preferences.

17.128.120 Site design preferences.

17.128.130 Radio frequency emissions standards.

17.128.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Telecommunications Regulations. The purpose and intent of these regulations are to provide a uniform and comprehensive set of standards for the development, location, siting and installation of wireless facilities. These regulations are intended to balance the needs of wireless communications providers, the regulatory functions of the City of Oakland, the mandates of State and Federal law and the potential impacts on the community and neighboring property owners in the design and siting of wireless facilities. The regulations are designed to promote and protect the public health, safety and welfare and the visual quality of the City of Oakland while encouraging the appropriate development of telecommunications activities throughout the city. These regulations shall apply to telecommunications projects.

(Ord. 12768 § 3 (part), 2006; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8500)

17.128.020 Exclusions.

The following activities shall be exempt from these regulations:

A. Ham radio operators;

B. Microwave dishes;

C. Minor modifications of existing wireless communications facilities and attached wireless communications facilities, whether emergency or routine, provided there is little or no change in the visual appearance. Minor modifications are those modifications to conforming wireless and attached wireless communications facilities that meet the performance standards set forth in this document;

D. Antennas and equipment cabinets or rooms completely located inside of structures and whose purpose is to enhance communications within the structures.

(Ord. 12768 § 3 (part), 2006; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8501)

17.128.025 Restrictions on Telecommunications Facilities.

A. Any Telecommunications Facility shall not be permitted in, or within one hundred (100) feet of the boundary of, any Residential Zone, HBX Zone, or D-CE-3 or D-CE-4 Zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. Any Monopole Telecommunications Facilities shall not be permitted in, or within three hundred (300) feet of the boundary of, any Residential Zone, HBX Zone, or D-CE-3 or D-CE-4 Zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

C. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view shall not be permitted within three hundred (300) feet of the boundary of Residential Zones RH-1 through RU-1 inclusive, any HBX Zone, or D-CE-3 or D-CE-4 Zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13060, § 2(Exh. A), 3-1-2011)

17.128.030 Removal of telecommunications facilities.

The project sponsor of a proposed telecommunications facility shall be required to provide proof of the establishment of a sinking fund to cover the cost of removing the facility if it is abandoned within a prescribed period. As used in these provisions, the word "abandoned" shall mean a facility that has not been operational for a consecutive six-month period, except where nonoperation is the result of maintenance or renovation activity pursuant to valid city permits. The sinking fund shall be established to cover a two-year period, at a financial institution approved by the city's Office of Budget and Finance. The sinking fund payment shall be determined by the Office of Budget and Finance and shall be adequate to defray expenses associated with the removal of the telecommunications facility.

(Ord. 11904 § 5.01 (part), 1996: prior planning code § 8502)

17.128.040 Supplemental definitions.

In addition to the terms defined in Chapter 17.09, the following specific definitions shall apply in reviewing applications under the telecommunications regulations:

"Antenna" means any system of poles, panels, rods, or similar devices used for the transmission or reception of radio frequency signals.

1. **"Omni-directional antenna"** transmits and/or receives radio frequency signals in a three hundred sixty (360) degree radial pattern. For the purpose of this document, an omni-directional antenna is up to fifteen (15) feet in height and up to four inches in diameter.
2. **"Directional antenna"** (also known as a "panel" antenna) transmits and/or receives radio frequency signals in a directional pattern of less than three hundred sixty (360) degrees.
3. **"Parabolic antenna"** (also known as a dish antenna) means a bowl-shaped device for the reception and/or transmission of radio frequency communications signals in a specific directional pattern.

"Attached wireless communication facility" means a wireless communication facility that is affixed to an existing structure which is not considered a component of the attached wireless communications facility.

"Collocation" exists when more than one wireless communications provider mounts equipment on a single support structure.

"Concealed from view" or "concealed from view" means that no part of the antenna, the means by which the antenna is attached to a building or structure or the cabinets or structure containing the radio or other related equipment used to operate the site may be visible from the adjacent public right-of-way within three hundred (300) feet of the antenna.

"Equipment cabinet" means a cabinet or other enclosure not housed in a separate building and used to house equipment used by telecommunications providers at a facility.

"Equipment shelter" means a building used to house equipment used by telecommunications providers at a facility.

"Ground Post Facility" means an antenna facility consisting of multiple posts mounted on the ground upon which sit antennas. If the height is up to seventeen (17) feet, it is treated as a Macro Facility and if over seventeen (17) feet, it is treated as a Monopole.

"Related equipment" means all equipment ancillary to the transmissions and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cable, conduit and connectors.

"Wireless communication facility" means an unstaffed facility for the transmission and reception of low-power radio signals.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12768 § 3 (part), 2006; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8503)

17.128.050 Micro Telecommunications Facilities.

A. General Development Standards for Micro Telecommunications Facilities.

1. The Micro Facilities shall be located on existing buildings, poles or other existing support structures.
2. Antennas may not project more than one (1) foot above the top of the structure and there may be no more than six (6) antennas per site. Antennas are exempt from the height limitation of the zone in which they are located. Structures which are nonconforming with respect to height, may be used for omni directional antennas providing they do not exceed four (4) feet above the existing structure. Placement of an

antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

3. The equipment cabinet must be concealed from public view or placed underground. The cabinet must be regularly maintained.

4. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the Federal Communications Commission.

B. Design Review Criteria for Micro Telecommunications Facilities. In addition to the design review criteria listed in Chapter 17.136, the following specific additional criteria must be met when design review is required before an application can be granted:

1. Antennas should be painted and/or textured to match the existing structure.

2. Antennas mounted on architecturally significant structures or significant architectural details of the building should be covered by appropriate casings which are manufactured to match existing architectural features found on the building.

3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

4. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.

C. Conditional Use Permit Criteria for Micro Telecommunications Facilities. In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:

1. The project must be demonstrated to have no visual impact.

2. The project must meet the special design review criteria listed in Subsection B. of this Section.

(Ord. 12872 § 4 (part), 2008; Ord. 12768 § 3 (part), 2006; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8505)

17.128.060 Mini Telecommunications Facilities.

A. General Development Standards for Mini Telecommunications Facilities.

1. The Mini Facilities shall be located on existing buildings, poles or other existing support structures.

2. The equipment cabinet(s) must be concealed from public view or placed underground. The cabinet must be regularly maintained.

3. Mini Facilities may exceed the height limitation specified for all zones but may not exceed fifteen (15) feet above the roof line or parapet. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

4. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the Federal Communications Commission.

B. Design Review Criteria for Mini Telecommunications Facilities. In addition to the design review criteria listed in Chapter 17.136, the following specific additional criteria must be met when design review is required before an application can be granted:

1. Antennas should be painted and/or textured to match the existing structure.
2. Antennas mounted on architecturally significant structures or significant architectural details of the building should be covered by appropriate casings which are manufactured to match existing architectural features found on the building.
3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.
4. Equipment cabinets shall be concealed from view or placed underground.
5. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.
6. For antennas attached to the roof, maintain a 1:1 ratio (example: ten (10) feet high antenna requires ten (10) feet setback from facade) for equipment setback unless an alternative placement would reduce visual impact; treat or screen the antennas to match existing air conditioning units, stairs, elevator towers, or other background; avoid placing roof mounted antennas in direct line with significant view corridors.

C. Conditional Use Permit Criteria for Mini Telecommunications Facilities. In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:

1. The project must meet the special design review criteria listed in Subsection B. of this Section.
2. The proposed project must not disrupt the overall community character.
3. In the Residential RH, RD, RM, RU-1, or RU-2 Zones, HBX Zones, and in the D-CE-3 and D-CE-4 Zones, the project must not have any visual impact.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13060, § 2(Exh. A), 3-1-2011; Ord. 12768 § 3 (part), 2006; Ord. 12272 § 4 (part), 2000; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8506)

17.128.070 Macro Telecommunications Facilities.

A. General Development Standards for Macro Telecommunications Facilities.

1. The Macro Facilities shall be located on existing buildings, poles or other existing support structures, or shall be post mounted.
2. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.
3. Macro Facilities may exceed the height limitation specified for all zones but may not exceed fifteen (15) feet above the roof line or parapet. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

4. Ground post mounted Macro Facilities must not exceed seventeen (17) feet to the top of the antenna.

5. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the Federal Communications Commission.

B. Design Review Criteria for Macro Telecommunications Facilities. In addition to the design review criteria listed in Chapter 17.136, the following specific additional criteria must be met when design review is required before an application can be granted:

1. Antennas should be painted and/or textured to match the existing structure.

2. Antennas mounted on architecturally significant structures or significant architectural detail of the building should be covered by appropriate casings which are manufactured to match existing architectural features found on the building.

3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

4. Equipment shelters or cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with surrounding backdrop or placed underground or inside existing facilities or behind screening fences.

5. Equipment shelters or cabinets shall be consistent with the general character of the area.

6. For antennas attached to the roof, maintain a 1:1 ratio (example: ten (10) feet high antenna requires ten (10) feet setback from facade) for equipment setback; screen the antennas to match existing air conditioning units, stairs, or elevator towers; avoid placing roof mounted antennas in direct line with significant view corridors.

7. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.

C. Conditional Use Permit Criteria for Macro Telecommunications Facilities. In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:

1. The project must meet the special design review criteria listed in Subsection B. of this Section.

2. The proposed project must not disrupt the overall community character.

(Ord. 12768 § 3 (part), 2006; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8507)

17.128.080 Monopole Telecommunications Facilities.

A. General Development Standards for Monopole Telecommunications Facilities.

1. Applicant and owner shall allow other future wireless communications companies including public and quasi-public agencies using similar technology to collocate antenna equipment and facilities on the monopole unless specific technical or other constraints, subject to independent verification, at the applicant's expense, at the discretion of the City of Oakland Zoning Manager, prohibit said collocation. Applicant and other wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure and shall provide for equitable

sharing of cost in accordance with industry standards. Construction of future facilities shall not interrupt or interfere with the continuous operation of applicant's facilities.

2. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.

3. When a monopole is in a Residential Zone or adjacent to a residential use, it must be set back from the nearest residential lot line a distance at least equal to its total height.

4. In all zones other than the D-CE-5, D-CE-6, IG, CIX-2, and IO Zones, the maximum height of Monopole Telecommunications Facilities and connecting appurtenances may be increased from the otherwise required maximum height to forty-five (45) feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the Conditional Use Permit Procedure).

5. In the D-CE-5, D-CE-6, CIX-2, and IO Zones, the maximum height of Monopole Telecommunications Facilities and connecting appurtenances may be increased from the otherwise required maximum height to eighty (80) feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the Conditional Use Permit Procedure).

6. In the IG Zone, the maximum height of Monopole Telecommunications Facilities and connecting appurtenances may reach a height of forty-five (45) feet. These facilities may reach a height of eighty (80) feet upon the granting of Regular Design Review approval (see Chapter 17.136 for the Design Review Procedure).

7. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the Federal Communications Commission.

8. Antennas may not extend more than fifteen (15) feet above their supporting structure.

B. Design Review Criteria for Monopole Telecommunications Facilities. In addition to the design review criteria listed in Chapter 17.136, the following specific additional criteria must be met when design review is required before an application can be granted:

1. Collocation is to be encouraged when it will decrease visual impact and collocation is to be discouraged when it will increase negative visual impact.

2. Monopoles should not be sited to create visual clutter or negatively affect specific views.

3. Monopoles shall be screened from the public view wherever possible.

4. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.

5. Site location and development shall preserve the preexisting character of the surrounding buildings and land uses and the zone district as much as possible. Wireless communication towers shall be integrated through location and design to blend in with the existing characteristics of the site to the extent practical. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

6. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.

C. Conditional Use Permit Criteria for Monopole Telecommunications Facilities. In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:

1. The project must meet the special design review criteria listed in Subsection B. of this Section.

2. Monopoles should not be located any closer than one thousand five hundred (1,500) feet from existing monopoles unless technologically required or visually preferable.

3. The proposed project must not disrupt the overall community character.

4. If a major conditional use permit is required, the Planning Director or the Planning Commission may request independent expert review regarding site location, collocation and facility configuration. Any party may request that the Planning Commission consider making such request for independent expert review.

a. If there is any objection to the appointment of an independent expert engineer, the applicant must notify the Planning Director within ten (10) days of the Commission request. The Commission will hear arguments regarding the need for the independent expert and the applicant's objection to having one appointed. The Commission will rule as to whether an independent expert should be appointed.

b. Should the Commission appoint an independent expert, the Commission will direct the Planning Director to pick an expert from a panel of licensed engineers, a list of which will be compiled, updated and maintained by the Planning Department.

c. No expert on the panel will be allowed to review any materials or investigate any application without first signing an agreement under penalty of perjury that the expert will keep confidential any and all information learned during the investigation of the application. No personnel currently employed by a telecommunication company are eligible for inclusion on the list.

d. An applicant may elect to keep confidential any proprietary information during the expert's investigation. However, if an applicant does so elect to keep confidential various items of proprietary information, that applicant may not introduce the confidential proprietary information for the first time before the Commission in support of the application.

e. The Commission shall require that the independent expert prepare the report in a timely fashion so that it will be available to the public prior to any public hearing on the application.

f. Should the Commission appoint an independent expert, the expert's fees will be paid by the applicant through the application fee, imposed by the City.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12768 § 3 (part), 2006; Ord. 12272 § 4 (part), 2000; Ord. 12237 § 4 (part), 2000; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8508)

17.128.090 Tower Telecommunications Facilities.

A. General Development Standards for Tower Telecommunications Facilities.

1. Applicant and owner shall allow other future wireless communications companies including public and quasi-public agencies using similar technology to collocate antenna equipment and facilities on the monopole unless specific technical or other constraints, subject to independent verification, at the applicant's expense, at the discretion of the City of Oakland Zoning Manager, prohibit said collocation. Applicant and other wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure and shall provide for equitable sharing of cost in accordance with industry standards. Construction of future facilities shall not interrupt or interfere with the continuous operation of applicant's facilities.
2. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.
3. When a tower is adjacent to a residential use, it must be set back from the nearest residential lot line a distance at least equal to its total height.
4. Antennas may not extend more than fifteen (15) feet above their supporting structure.
5. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the FCC.

B. Design Review Criteria for Tower Telecommunications Facilities. In addition to the design review criteria listed in, the following specific additional criteria must be met when design review is required before an application can be granted:

1. Collocation is to be encouraged when it will decrease visual impact and collocation is to be discouraged when it will increase negative visual impact.
2. Towers should not be sited to create visual clutter or negatively affect specific views.
3. Towers shall be screened from the public view wherever possible.
4. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.
5. Site location and development shall preserve the preexisting character of the surrounding buildings and land uses and the zone district as much as possible. Wireless communication towers shall be integrated through location and design to blend in with the existing characteristics of the site to the extent practical. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.
6. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12768 § 3 (part), 2006; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8509)

17.128.100 Regulations apply to parks and other similar open spaces.

Telecommunications Facilities proposed in parks and other similar open spaces land shall be subject to the same regulations as set forth in the nearest Residential Zone.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8510)

17.128.110 Site location preferences.

New wireless facilities shall generally be located on the following properties or facilities in order of preference:

A. Co-located on an existing structure or facility with existing wireless antennas.

B. City-owned properties or other public or quasi-public facilities.

C. Existing commercial or industrial structures in Nonresidential Zones (excluding all HBX Zones and the D-CE-3 and D-CE-4 Zones).

D. Existing commercial or industrial structures in Residential Zones, HBX Zones, or the D-CE-3 or D-CE-4 Zones.

E. Other Nonresidential uses in Residential Zones, HBX Zones, or the D-CE-3 or D-CE-4 Zones.

F. Residential uses in Nonresidential Zones (excluding all HBX Zones and the D-CE-3 and D-CE-4 Zones).

G. Residential uses in Residential Zones, HBX Zones, or the D-CE-3 or D-CE-4 Zones.

Facilities locating on an A, B or C ranked preference do not require a site alternatives analysis. Facilities proposing to locate on a D through G ranked preference, inclusive, must submit a site alternatives analysis as part of the required application materials. A site alternatives analysis shall, at a minimum, consist of:

a. The identification of all A, B and C ranked preference sites within one thousand (1,000) feet of the proposed location. If more than three (3) sites in each preference order exist, the three such closest to the proposed location shall be required.

b. Written evidence indicating why each such identified alternative cannot be used. Such evidence shall be in sufficient detail that independent verification, at the applicant's expense, could be obtained if required by the City of Oakland Zoning Manager. Evidence should indicate if the reason an alternative was rejected was technical (e.g. incorrect height, interference from existing RF sources, inability to cover required area) or for other concerns (e.g. refusal to lease, inability to provide utilities).

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13060, § 2(Exh. A), 3-1-2011; Ord. 12768, § 3 (part), 2006)

17.128.120 Site design preferences.

New wireless facilities shall generally be designed in the following order of preference:

A. Building or structure mounted antennas completely concealed from view.

B. Building or structure mounted antennas set back from roof edge, not visible from public right-of way.

C. Building or structure mounted antennas below roof line (facade mount, pole mount) visible from public right-of-way, painted to match existing structure.

D. Building or structure mounted antennas above roof line visible from public right-of-way.

E. Monopoles.

F. Towers.

Facilities designed to meet an A or B ranked preference do not require a site design alternatives analysis. Facilities designed to meet a C through F ranked preference, inclusive, must submit a site design alternatives analysis as part of the required application materials. A site design alternatives analysis shall, at a minimum, consist of:

a. Written evidence indicating why each such higher preference design alternative cannot be used. Such evidence shall be in sufficient detail that independent verification could be obtained if required by the City of Oakland Zoning Manager. Evidence should indicate if the reason an alternative was rejected was technical (e.g. incorrect height, interference from existing RF sources, inability to cover required area) or for other concerns (e.g. inability to provide utilities, construction or structural impediments).

(Ord. 12768 § 3 (part), 2006)

17.128.130 Radio frequency emissions standards.

The applicant for all wireless facilities, including requests for modifications to existing facilities, shall submit the following verifications:

a. With the initial application, a RF emissions report, prepared by a licensed professional engineer or other expert, indicating that the proposed site will operate within the current acceptable thresholds as established by the Federal government or any such agency who may be subsequently authorized to establish such standards.

b. Prior to commencement of construction, a RF emissions report indicating the baseline RF emissions condition at the proposed site.

c. Prior to final building permit sign off, an RF emissions report indicating that the site is actually operating within the acceptable thresholds as established by the Federal government or any such agency who may be subsequently authorized to establish such standards.

(Ord. 12768 § 3 (part), 2006)

Chapter 17.130 ADMINISTRATIVE PROCEDURES GENERALLY

Sections:

17.130.010 Title, purpose, and applicability.

17.130.020 Alternative notification procedures.

17.130.030 Notice by mail.

17.130.040 Procedure for resolving tie votes.

17.130.050 Presentation and submittal of issues and/or evidence.

17.130.060 Obligation of applicant to defend, indemnify, and hold harmless the City of Oakland.

17.130.070 Uniformly applied development standards automatically imposed as standard conditions of approval for development projects.

17.130.080 City Council consideration of legislative and adjudicatory actions.

17.130.090 Minor land use permits considered concurrently with Major permits.

17.130.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the General Regulations. The purpose of these provisions is to set forth certain regulations that may or shall, depending on the situation, apply to all provisions of procedures and administration (Chapters 17.130 through 17.148).

(Prior planning code § 9000)

17.130.020 Alternative notification procedures.

A. Number of Owners Greater than Five Hundred (500). If the number of owners of real property to whom notice would be mailed or delivered pursuant to any provision of procedures and administration (Chapters 17.130 through 17.148) were to exceed five hundred (500), the Director of City Planning may, at his or her discretion, use other alternative notification procedures deemed appropriate. Such decision may be appealed pursuant to the administration appeal procedure in Chapter 17.132

B. Notification Requirements Not in the Public Interest. If the Director of City Planning finds that, due to the special circumstances of a specific application, there will be no negative impact on surrounding properties, and that the purposes of the zoning regulations and the public interest of the citizens of Oakland will not be served by rigidly following the notification requirements set forth in any provision of procedures and administration (Chapters 17.130 through 17.148), the Director may, at his or her discretion, vary the requirements set forth or may use other alternative notification procedures deemed appropriate. Such decision may be appealed pursuant to the administrative appeal procedure in Chapter 17.132

C. Notification of Adjoining Jurisdictions. Whenever a provision of procedures and administration (Chapters 17.130 through 17.148) results in an adjoining jurisdiction falling within an area in which notices are to be mailed or delivered to Oakland property owners,

such notice shall also be mailed or delivered to the Director of City or County Planning, whichever the case may be, in said jurisdiction.

(Prior planning code § 9001)

17.130.030 Notice by mail.

Notice by mail is deemed given on the date the notice is placed into the U.S. Mail system.

(Prior planning code § 9002)

17.130.040 Procedure for resolving tie votes.

A. Planning Commission is Final Decision-making Body. If, in a matter that is appealable to the Planning Commission or to the Commission's Residential Appeals Committee and in which the Commission or Committee is the final decision making body, and is unable to reach an affirmative decision to approve or deny an application, the initial decision by the Planning Director stands as a final decision if the Commission or Committee is unable to reach a decision the second time the matter appears on the Commission's or Committee's agenda and votes are taken.

B. City Council is Final Decision-making Body. If, in the matter that is appealable to the City Council, the Planning Commission or the Commission's Residential Appeals Committee is unable to reach an affirmative decision to approve or deny an application, the Chair of the Commission, in his or her discretion, shall either:

1. Forward the matter to the City Council if the Chair determines that the Commission or Committee is deadlocked or if the application would otherwise be automatically Deemed Approved and the applicant has not agreed to waive the state or local Deemed Approved provisions; or

2. Request further votes on the matter at this meeting or at subsequent meetings, provided however that the Commission or Committee may not continue the matter if it would result in the application being Deemed Approved.

A tie vote that is forwarded to the City Council, for the Council's decision, shall be considered a decision for purposes of any state or local Deemed Approved provisions, such that the application shall not be automatically Deemed Approved and any agreement between the Planning Director, Commission or Committee and the applicant extending the time of such automatic Deemed Approved shall include a statement to this effect.

(Ord. 12376 § 3 (part), 2001: Ord. 11741 § 2, 1994: prior planning code § 9003)

17.130.050 Presentation and submittal of issues and/or evidence.

A. Whenever, pursuant to the Oakland Planning Code, a matter of original jurisdiction, for which a hearing is required, is pending before the City Council or City Planning Commission, any interested party, while the hearing is open, may submit any issues and/or oral, written and/or documentary evidence to the City Council or the Commission, whichever is applicable, for its consideration.

B. Whenever, pursuant to the Oakland Planning Code, an appeal for which a hearing is required is pending before the City Council, City Planning Commission, or the Commission's Residential Appeals Committee, the appellant may not submit any issues

and/or oral, written and/or documentary evidence not previously submitted in the appeal form itself and presented: (a) prior to the close of the written public comment period for the underlying decision being appealed, in the case of appeals based on a decision by the Zoning Administrator or other administrative decisions, or (b) prior to the close of the City Planning Commission's public hearing for the underlying decision being appealed, in the case of appeals based on decisions made by the City Planning Commission, as applicable. Unless otherwise expressly stated in the Oakland Municipal Code and/or Oakland Planning Code, appeals are not de novo.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: Ord. 11828 § 1, 1995: prior planning code § 9004)

17.130.060 Obligation of applicant to defend, indemnify, and hold harmless the City of Oakland.

A. To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the City of Oakland Redevelopment Successor Agency, the Oakland City Planning Commission and its respective agents, officers, volunteers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, any land-use related approvals and actions including but not limited to: (1) amendments to the Planning Code, rezonings, and/or General Plan amendments; (2) an approval by the City relating to a development-related application or subdivision and/or a (Lease) Disposition and Development Agreement; or (3) implementation of such. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

B. Within ten (10) calendar days of the filing of any Action as specified in Subsection A. above, the applicant shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of Agreement does not relieve the applicant of any of the obligations contained in this Section or any other requirements or conditions of approval that may be imposed by the City.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006)

17.130.070 Uniformly applied development standards automatically imposed as standard conditions of approval for development projects.

A development application must comply with all current and applicable City of Oakland uniformly applied development standards, typically imposed as Standard Conditions of Approval, including those development applications "deemed approved" under the State Permit Streamlining Act (Government Code section 65920 et. seq., as it may be amended).

(Ord. 12899 § 4, Exh. A (part), 2008)

17.130.080 City Council consideration of legislative and adjudicatory actions.

When a development application requires both legislative and adjudicatory actions, the entire application shall be considered by the City Council for final action. The City Council has the authority to consider and revise as appropriate (accept, reject, or modify) the adjudicatory land use decisions of the Planning Commission, regardless of whether an appeal to the City Council is filed challenging such adjudicatory land use decisions.

(Ord. 12899 § 4, Exh. A (part), 2008)

17.130.090 Minor land use permits considered concurrently with Major permits.

A. Any Minor land use-related permit and/or approval that is related to a development application that also includes any Major land use-related permit and/or approval shall be considered concurrently with the Major land use-related permit and/or approval, and shall follow all procedural requirements associated with City Planning Commission decisions. In this case, the entire application shall initially be considered by the City Planning Commission and may be appealed to the City Council, in accordance with the requirements for Major land use-related permit and/or approval or discretionary actions.

B. Any Minor land use-related permit referred to the City Planning Commission for initial decision in order to be considered concurrently with any Major land use-related permit and/or approval shall still be considered a Minor land use-related permit and/or approval, and the required findings for said Minor land use-related permit and/or approval shall apply.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Chapter 17.131 REASONABLE ACCOMMODATIONS POLICY AND PROCEDURES

Sections:

17.131.010 Title, purpose, and applicability.

17.131.020 Definitions.

17.131.030 Notice of Availability; Application Requirements.

17.131.040 Review procedures.

17.131.050 Criteria for Category "A" Requests.

17.131.060 Findings for Category "B" Requests.

17.131.070 Finality of Decision and Appeal of Determination.

17.131.010 Title, purpose and applicability.

A. **Title and Intent.** The provisions of this Chapter shall be known as the Reasonable Accommodations Policy and Procedure Regulations. The intent of the Reasonable Accommodations Policy and Procedure regulations is to provide flexibility in the application of the Planning Code for individuals with a disability, when flexibility is necessary to eliminate barriers to housing opportunities. This Chapter will facilitate compliance with federal and state fair housing laws, and promote housing opportunities for residents of Oakland.

B. **Purpose.** The purpose of this Chapter is to establish a procedure for persons with disabilities seeking fair access to housing to make requests for reasonable accommodation in the application of Oakland's zoning laws, rules, policies, practices and procedures pursuant to Section 3604(f)(3)(b) of Title 42 of the United States Code (the "Fair Housing Act") and Section 12955 et seq. of the California Government Code (the "California Fair Employment and Housing Act"), which prohibit local government from refusing to make reasonable accommodations in policies and practices when these accommodations are necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling.

C. **Applicability.** A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

17.131.020 Definitions.

"Acts" means the "Fair Housing Act" (Section 3601 et seq. of Title 42 of the United States Code) and the "California Fair Employment and Housing Act" (Section 12955 et seq. of the California Government Code).

"Person with a Disability" is any person who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone who has a record of such impairment. Federal and State fair housing laws do not

protect an individual's current unlawful use of controlled substances or other drugs, unless that individual has a separate disability.

"**Request for Reasonable Accommodations**" means a request to modify land use, zoning and building regulations, policies, practices, or procedures in order to give people with disabilities an equal opportunity to use and enjoy a dwelling.

17.131.030 Notice of Availability; Application Requirements.

A. Notice of the City of Oakland's Reasonable Accommodations Policy and Procedure shall be displayed at public information counters in the planning and building offices of the City.

B. Any person (or his or her representative) who requires reasonable accommodation because of a disability shall make such a request to the City on a form provided by the Planning Director, or his or her designee. The application shall be accompanied by such information as may be required to enable review of the requested accommodation. City staff are available to assist with the completion of a reasonable accommodations request (see related Reasonable Accommodations Form for more information).

C. Any information submitted as part of a reasonable accommodations request shall be kept confidential and shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.

D. Review with other land use or design review applications. If the project for which the request is being made also requires one or more unrelated discretionary approvals (including, but not limited to, design review, conditional use permit, variance or subdivision), then to the extent feasible, the applicant shall file the request for reasonable accommodation together with any unrelated application for discretionary approval.

17.131.040 Review procedures.

A. Authority. The Planning Director, or his or her designee, shall have the authority to consider and act on requests for reasonable accommodation and shall make reasonable accommodations in rules, policies, practices, or services when those accommodations may be necessary to afford persons with disabilities equal opportunities to use and enjoy the dwelling.

1. For requests for reasonable accommodation the Planning Director, or his or her designee, shall issue a written determination within a timely manner but no later than thirty (30) days of the date of receipt of a complete application form and may: (1) grant the accommodation request; (2) grant the accommodation request subject to specified nondiscriminatory conditions of approval; or (3) deny the request. All written determinations shall give notice of the right to appeal, if any, as specified in Section 17.131.070. The notice of determination shall be sent to the applicant by first class mail or in a format requested by the applicant.

2. For requests for reasonable accommodations involving any applications for discretionary approval, the application for reasonable accommodation shall be processed and considered separately from any discretionary elements of the same proposal. The Planning Director, or his or her designee, shall act on the request for reasonable accommodation within a timely manner but no later than thirty (30) days of the date of a complete application form; however, if the request for a reasonable accommodation cannot be effectuated until a final decision is rendered on the related discretionary approvals, a ‘‘provisional approval” can be granted within the 30 day time frame allowing the reasonable accommodation request to be implemented, or modified as needed to obtain the same goal, at the time of the final discretionary approval, and shall become final at the same time. The applications for discretionary approval shall be separately considered and shall be subject to the procedures for consideration specified in the applicable Planning Code Chapter, depending on the type of application. The appropriate decision-making body shall act on all discretionary permits, but not the reasonable accommodation request.

B. Types of Requests

1. “Category A” Requests

Requests for accommodation from development regulations not specified as a “Category B” request (see item 2 below), including but not limited to, setbacks, building height limits and parking regulations in the Planning Code, or for any additions to Residential Facilities which meet the definition of a “Small Project,” as defined in Section 17.136.030(B), shall be considered “Category A” requests.

2. “Category B” Requests

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

C. Procedure

1. The applicant shall submit a completed reasonable accommodation application form to the Planning Director, or his or her designee, or request assistance from City staff to complete the application.

2. Whenever reasonable accommodation is requested for a proposal also requiring one or more discretionary land use permits, including but not limited to a design review, conditional use permit, planned unit development permit, or variance, to the extent feasible the application for reasonable accommodation shall be submitted with the application for said permit(s). The reasonable accommodation request shall be processed and considered separately from any land use permits requested for the same proposal as specified in 17.131.040(2).

3. In reviewing a request for a reasonable accommodation, the Planning Director, or his or her designee, shall consider information in the completed reasonable accommodation application form, factors described in Section 17.131.050 and/or 17.131.060, and any additional information consistent with this Chapter. The Planning Director, or his or her designee, may consult with staff of the City's Americans with Disabilities Act (ADA) Programs Division during the review period.

4. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

17.131.050 Criteria for "Category A" Requests

A proposal will qualify for "Category A" Request if it meets each of the provisions set forth below.

A. The proposal is limited to one or more of the types of work listed as "Category A" request in 17.131.040(B)(1);

B. That the accommodation is necessary to afford people with disabilities an equal opportunity to use and enjoy the dwelling.

17.131.060 Findings for "Category B" Requests.

In making a determination to grant a requested accommodation, the Planning Director, or his or her designee, shall make all of the following findings for "Category B" requests:

1. That the housing, which is the subject of the request for reasonable accommodation, will be used by people with disabilities protected under fair housing laws.

2. That the accommodation is necessary to afford people with disabilities an equal opportunity to use and enjoy the dwelling;

3. That the requested accommodation will not require a fundamental alteration to zoning laws, rules, policies, practices and procedures; and

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

None of the findings of this Section are intended to supersede any other findings which might also be required for a discretionary permit that is reviewed concurrently with the request for accommodation (see Section 17.131.030(D)).

17.131.070 Finality of Decision and Appeal of Determination.

A. "Category A" and "Category B" Requests.

1. For requests for reasonable accommodations not involving one or more unrelated land use permits, a decision by the Planning Director, or his or her designee, shall become final ten (10) calendar days after the date of initial decision, unless appealed to the City Administrator by the applicant. In the event that the last date of appeal falls on a weekend, holiday or when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Appeals considered by the City Administrator, in consultation with the City's ADA Programs Division, shall be final immediately and are not appealable.

2. For requests for reasonable accommodations involving one or more land use permits, the Planning Director, or his or her designee, shall act on the request for reasonable accommodations, subject to the appeal process described in 17.131.070(A)(1) . The appeal periods in 17.131.070(A)(1) shall run from the date of the denial of the permit or the modification or denial of the provisional permit, whichever is later. The appropriate decision making body shall act on all discretionary permits including appeal processes for the discretionary permits.

Chapter 17.132 ADMINISTRATIVE APPEAL PROCEDURE

Sections:

17.132.010 Title, purpose, and applicability.

17.132.020 Appeal.

17.132.030 Procedure for consideration.

17.132.040 Appeal to Council on transit line sign controls.

17.132.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Administrative Appeal Procedure. The purpose of these provisions is to prescribe the procedure by which an appeal may be taken to the City Planning Commission or, if applicable, to the Commission's Residential Appeals Committee from any determination or interpretation made by the Director of City Planning under the zoning regulations. This procedure shall apply to all appeals from such determinations and interpretations.

(Ord. 12376 § 3 (part), 2001: prior planning code § 9100)

17.132.020 Appeal.

Within ten (10) calendar days after the date of any administrative determination or interpretation made by the Director of City Planning under the zoning regulations, an appeal from such decision may be taken to the City Planning Commission by any interested party. In the case of appeals involving one- or two-unit Residential Facilities, the appeal shall be considered by the Commission's Residential Appeals Committee. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department and shall be accompanied by such a fee as specified in the City fee schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Upon receipt of the appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof and, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: prior planning code § 9101)

17.132.030 Procedure for consideration.

In its review of an administrative appeal, the City Planning Commission or, if applicable, the Commission's Residential Appeals Committee shall consider the purpose and intent, as well as the letter, of the pertinent provisions, and shall affirm, modify, or reverse the Director's

determination or interpretation. The decision of the Commission or Committee shall be final immediately, except as otherwise provided in Section 17.132.040.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: prior planning code § 9102)

17.132.040 Appeal to Council on transit line sign controls.

Within ten (10) calendar days after the date of a decision by the City Planning Commission on an administrative appeal involving the provisions of Sections 17.104.040 or 17.114.150, an appeal from said decision may be taken to the City Council by any interested party. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Council shall review the purpose and intent, as well as the letter, of the pertinent provisions, and shall affirm, modify, or reverse the Commission's decision. The decision of the Council shall be final.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9103)

Chapter 17.134 CONDITIONAL USE PERMIT PROCEDURE

Sections:

17.134.010 Title, purpose, and applicability.

17.134.020 Definition of major and minor conditional use permits.

17.134.030 Application.

17.134.040 Procedures for consideration.

17.134.050 General use permit criteria.

17.134.060 Appeal to Planning Commission—Minor conditional use permits.

17.134.070 Appeal to Council—Major conditional use permits.

17.134.080 Adherence to approved plans.

17.134.110 Conditional use permit related to planned unit development or subdivision.

17.134.120 Limitation on resubmission.

17.134.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Conditional Use Permit Procedure. The purpose of these provisions is to prescribe the procedure for the accommodation of uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, through review and, where necessary, the imposition of special conditions of approval. This procedure shall apply to all proposals for which a conditional use permit is required by the zoning regulations.

(Prior planning code § 9200)

17.134.020 Definition of major and minor conditional use permits.

A. **Major Conditional Use Permit.** A conditional use permit is considered a major conditional use permit if it involves any of the following:

1. Thresholds. Any project requiring a conditional use permit that meets any of the following size thresholds:

   a. The actual project site (including only portions of the lot actually affected by the project) exceeds one (1) acre.

   b. Nonresidential projects involving more than twenty-five thousand (25,000) square feet of floor area, except in the R-80, CBD-R, CBD-P (when not combined with the S-7 Zone), CBD-C, CBD-X, S-2, S-15, D-CO, or D-LM Zones.

   c. Residential projects requiring a conditional use permit for density resulting in a total number of living units as follows:

      i. Three (3) or more dwelling units in the RM-2 Zone;

      ii. Seven (7) or more dwelling units in the RM-3 or RM-4 Zone.

d. Residential projects requiring a conditional use permit to exceed the basic or permitted density resulting in seven (7) or more dwelling units in the RU or CBD-R Zones.

e. Large-Scale Developments. Any development which is located in the R-80, CBD-R, CBD-P (when not combined with the S-7 Zone), CBD-C, CBD-X, S-2, S-15, D-CO, or D-LM Zones and results in more than one hundred thousand (100,000) square feet of new floor area.

f. Projects that request to be considered for an exception to the D-LM Height/Bulk/Intensity Area standards, as described in Table 17.101G.04, Note 2.

2. **Uses.** Any project requiring a conditional use permit that involves any of the following activity or facility types except where the proposal involves only accessory parking, the resumption of a discontinued nonconforming activity, or an addition to an existing activity which does not increase the existing floor area by more than twenty percent (20%):

a. Activities:

i. Residential Care Residential;

ii. Emergency Shelter Residential;

iii. Extensive Impact Civic;

iv. Fast-food Restaurant Commercial;

v. Convenience Market Commercial;

vi. Alcoholic Beverage Sales Commercial, or sale of alcoholic beverages at any full-service restaurant in a location described by Subsection 17.103.030.B;

vii. Heavy/High Impact Industrial;

viii. Small Scale Transfer and Storage Hazardous Waste Management;

ix. Industrial Transfer/Storage Hazardous Waste Management;

x. Mining and Quarrying Extractive;

xi. Special Health Care Civic Activities.

b. Facilities:

i. Drive-Through;

ii. Advertising Sign, except when the facility meets the requirements of Section 17.11.090.

3. **Special Situations.** Any project requiring a conditional use permit that involves any of the following situations:

a. A project requiring development of an Environmental Impact Report (EIR);

b. A single establishment containing a Commercial or Industrial Activity, or portion thereof, which is located in any Residential Zone and occupies more than five thousand (5,000) square feet of floor area, except where the proposal involves only the resumption of a nonconforming activity;

c. Off-Street Parking Facilities in the C-40, CBD-P, CBD-C, CBD-X, S-2, and D-LM Zones serving fifty (50) or more vehicles;

d. Transient Habitation Commercial Activities in the C-40 and C-45 Zones;

e. Monopole Telecommunications Facilities in, or within three hundred (300) feet of the boundary of, any Residential or HBX Zone;

f. A project in the OS Zone listed as requiring a major conditional use permit in Chapter 17.11;

g. An Electroplating Activity as defined in Section 17.09.040 subject to the provisions of Section 17.102.340;

h. A Telecommunications Facility in or within one hundred (100) feet of the boundary of any Residential Zone, HBX Zone, or the D-CE-3 or D-CE-4 Zone;

i. A Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of the RH, RD, RM, RU-1, or RU-2 Zones, HBX Zones, or the D-CE-3 or D-CE-4 Zone.

B. **Minor Conditional Use Permit.** A minor conditional use permit is a conditional use permit which does not involve any of the purposes listed in Subsection A. of this Section.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13060, § 2(Exh. A), 3-1-2011; Ord. No. 13042, § 4(Exh. A), 10-19-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12971, § 2(Exh. A), 9-22-2009; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. 12872 § 4 (part), 2008; Ord. 12868 § 2 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12768 § 3 (part), 2006; Ord. 12501 § 80, 2003: Ord. 12450 § 19, 2002; Ord. 12350 § 3 (part), 2001; Ord. 12272 § 4 (part), 2000; Ord. 12237 § 4, 2000; Ord. 12234 § 4, 2000; Ord. 12224 § 7, 2000; Ord. 12205 § 4 (part), 2000; Ord. 12199 § 9 (part), 2000; Ord. 12138 § 4 (part), 1999; Ord. 12078 § 5 (part), 1998; Ord. 12072 § 12, 1998; Ord. 12016 § 2 (part), 1997; Ord. 11904 § 5.91, 1996; Ord. 11892 § 21, 1996; Ord. 11539 § 2, 1993; prior planning code § 9201)

17.134.030 Application.

An application for a conditional use permit shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall be accompanied by such information including, but not limited to, site and building plans, drawings and elevations, and operational data, as may be required to enable the pertinent criteria to be applied to the proposal, and by the fee prescribed in the fee schedule in Chapter 17.150. In the OS Zone, the application shall also include the most recent open space balance calculated pursuant to the no net loss provisions at Section 17.135.060, and any additional information deemed necessary by the City Planning Department.

(Ord. 12078 § 5 (part), 1998: prior planning code § 9202)

17.134.040 Procedures for consideration.

A. **Major Conditional Use Permits.**

1. In All Zones. An application for a major conditional use permit shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting an enlarged notice on the premises of the subject property involved in the application. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized

assessment roll as owning real property in the City within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. While the hearing is open, any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. The Commission shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to other applicable use permit criteria, and may grant or deny the application for the proposed conditional use permit or require such changes or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The determination of the Commission shall become final ten (10) calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.134.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on the matter, in accordance with the above procedures. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

2. Alcoholic Beverage Sales Activities in Alcoholic Beverage Sales License Overconcentrated Areas. In addition to following the provisions of Subsection A.1. of this Section, the City Planning Commission shall also determine whether the proposal conforms to the criteria for findings of "Public Convenience and Necessity" set forth in Subsection 17.103.030.B.3.

3. In the OS Zone. Applications for conditional use permits in the OS Zone shall be subject to the special use permit review procedure for the OS Zone established in Chapter 17.135.

B. **Minor Conditional Use Permits.**

1. In All Zones. An application for a minor conditional use permit shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. In this case, the application shall still be considered a minor permit, but shall be processed according to the procedure in Subsection A. of this Section. In these instances, any other minor permits associated with the application shall be considered concurrently by the Planning Commission, pursuant to Section 17.130.090. Notice shall be given by posting an enlarged notice on the premises of the subject property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the City within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director. Any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence: (a) to the Director prior to the close of the written public comment period for his or her consideration, or (b) to the Commission while the hearing is open for its consideration, whichever is applicable; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. The

Director shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to other applicable use permit criteria, and may grant or deny the application for the proposed conditional use permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria. The determination of the Director of City Planning shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.134.060. In those cases which are referred to the Commission by the Planning Director, the decision of the Commission shall become final ten (10) days after the date of decision unless appealed to the City Council in accordance with Section 17.134.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented (a) to the Director prior to the close of the written public comment period, or (b) to the Commission prior to the close of the Commission's public hearing on the matter, whichever is applicable, in accordance with the above procedures. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

2. In the OS Zone. Applications for conditional use permits in the OS Zone shall be subject to the special use permit review procedure for the OS Zone established in Chapter 17.135.

C. **Alternative Notification Procedures.** If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set forth in Subsections A. and B. of this Section.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12237 § 4 (part), 2000; Ord. 12073 § 5 (part), 1998; Ord. 11904 §§ 5.92, 5.93, 1996; Ord. 11831 § 5, 1995; prior planning code § 9203)

17.134.050 General use permit criteria.

Except as different criteria are prescribed elsewhere in the zoning regulations, a conditional use permit shall be granted only if the proposal conforms to all of the following general use permit criteria, as well as to any and all other applicable use permit criteria:

A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development;

B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant;

C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region;

D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050

E. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan or development control map which has been adopted by the Planning Commission or City Council.

F. For proposals involving a One- or Two-Family Residential Facility: If the conditional use permit concerns a regulation governing maximum height, minimum yards, maximum lot coverage, or maximum floor area ratio, the proposal also conforms with at least one of the following additional criteria:

1. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or

2. At least sixty percent (60%) of the lots in the immediate context are already developed and the proposal would not exceed the corresponding as-built condition on these lots, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any conditional use permit.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: prior planning code § 9204)

17.134.060 Appeal to Planning Commission—Minor conditional use permits.

Within ten (10) calendar days after the date of a decision by the Director of City Planning on an application for a minor conditional use permit, an appeal from said decision may be taken to the City Planning Commission by the applicant or any other interested party. In the case of appeals involving one- or two-unit Residential Facilities, the appeal shall be considered by the Commission's Residential Appeals Committee. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Director of City Planning prior to the close of the written public comment period on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of the appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof; which in the case of applications limited to one- or two-unit Residential Facilities, shall be the date of the Committee's next regularly

scheduled meeting following the thirtieth day after the appeal is filed. Not less than seventeen (17) days prior to the date of the Commission's or Committee's consideration of the appeal, the Secretary shall give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented to the Director of City Planning prior to the close of the written public comment period for the underlying decision being appealed, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to any other applicable use permit criteria, and may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The decision of the Commission or, if applicable, the Committee shall be final.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: prior planning code § 9205)

17.134.070 Appeal to Council—Major conditional use permits.

A. With the exceptions of appeal for adult entertainment activities, appeals to the City Council shall be governed by the following:

Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for a major conditional use permit, an appeal from said decision may be taken to the City Council by the applicant, the permit holder, or any other interested party. In event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record. previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of the appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to

similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item, in accordance with the above procedures, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Council shall determine whether the proposed use conforms to the applicable use permit criteria, and may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final.

B. Appeals to the City Council relating to adult entertainment activities shall be governed by the following:

Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for a major conditional use permit, an appeal from said decision may be taken to the City Council by the applicant, the permit holder, or any other interested party. In event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of the appeal, the Council shall set the date for consideration thereof. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item, in accordance with the above procedures, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Council shall determine whether the proposed use conforms to the applicable special use permit criteria, and shall grant the permit if it determines that all the said criteria are present or require such chances in the proposed use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal and must decide the appeal within sixty (60) days of the appeal being filed.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12199 § 9 (part), 2000; prior planning code § 9206)

17.134.080 Adherence to approved plans.

A conditional use permit shall be subject to the plans and other conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the permit shall terminate one (1) year from the effective date of its granting unless, within such period, all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. However, such period of time may be extended by the original reviewing officer or body, upon application filed at any time before said period has expired. Expiration of any necessary building permit for the project may invalidate the conditional use permit approval if such extension period has also expired.

(Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9207)

17.134.110 Conditional use permit related to planned unit development or subdivision.

Whenever a conditional use permit is required for a proposal also requiring a planned unit development permit, application for the use permit shall be included in the application for the planned unit development permit and shall be processed and considered as part of same. Whenever a conditional use permit is required within a proposed subdivision, the application for the use permit may be submitted with the tentative map or tentative parcel map required by the Oakland Municipal Code, and may be processed and considered therewith. In either case, however, the reviewing officer or body shall, in considering such a use permit, determine whether the proposal conforms to all the applicable use permit criteria.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 9209)

17.134.120 Limitation on resubmission.

Whenever an application for a major conditional use permit has been denied by the City Council or denied by the Planning Commission and the applicant fails to file a timely appeal with the City Council, no such application for essentially the same proposal affecting the same property, or any portion thereof, shall be filed within one year after the date of denial. This section shall not apply in instances where the applicant can show, on the face of any subsequent application, changed circumstances sufficient to justify a reheating. Applications for hearing pursuant to this section shall be considered by the Director of City Planning. A determination by the Director shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Any such decision by the City Planning Commission shall be final.

(Ord. 12872 § 4 (part), 2008; Prior planning code § 9210)

Chapter 17.135 SPECIAL USE PERMIT REVIEW PROCEDURE FOR THE OS ZONE

Sections:

17.135.010 Title, purpose, and applicability.

17.135.020 Exemptions.

17.135.030 Procedure for consideration.

17.135.040 Referral to Landmarks Preservation Advisory Board.

17.135.050 Special requirements for projects consistent with Park Master Plans.

17.135.060 No net loss tracking.

17.135.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Special Use Permit Review Procedures for the OS Zone. The purpose of these provisions is to prescribe the procedure for reviewing projects which are proposed in the OS Zone, including provisions for public participation. This procedure shall apply to all improvements or changes in use, as defined in Section 17.09.050.

(Ord. 12078 § 4 (part), 1998)

17.135.020 Exemptions.

A. Projects approved by the City Council in conjunction with the public art program, Measure AA (1989), Measure K (1990), and Measure I (1996).

B. Business and Advertising Signs. Business and Advertising Signs are exempt from these provisions only when a city agency enters into an agreement with a private enterprise to enhance public park facilities and/or programs, and the private enterprise is a principal provider of cash and/or in-kind contribution toward the enhancements. Such signs will meet the requirements of Section 17.11.090

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12350 § 3 (part), 2001: Ord. 12078 § 4 (part), 1998)

17.135.030 Procedure for consideration.

No change in use or improvement, as defined in Section 17.09.050, shall occur on land designated OS unless the following process has been followed:

A. Pre-development Neighborhood Meeting. At the discretion of the Director of Parks, Recreation, and Cultural Affairs, a neighborhood meeting may be convened in the vicinity of the park or open space land affected by the proposed change in use or improvement. If such a meeting is held, notice shall be given by posting an enlarged notice on the premises of the park or open space land. At the discretion of the Director, the meeting notice may also be posted on utility poles within three hundred (300) feet of such park or open space land. Notices shall also be mailed to neighborhood

organizations and individuals who have expressed an interest in the subject park or project area.

B. Administrative Project Review. Once preliminary community feedback has been received and considered, the project sponsor shall submit a request to the Director of City Planning, including a project description and cost estimate. The Director shall coordinate preliminary review of the project with the project's operating department and any other City department or agency likely to be interested or involved in the execution, operation, or maintenance of the project. These requirements shall include, but are not limited to, formal CEQA review of the proposed change in use or improvement. A written summary of comments shall be prepared prior to the scheduling of the public hearing.

C. Public Hearing. A public hearing shall be required for any change in use or improvement and shall be conducted and heard by the City Planning Commission and/or the Parks and Recreation Advisory Commission, as provided by Subdivisions 1 and 2 of this Subsection.

1. **Major Conditional Use Permits.**

a. An application for a major conditional use permit, as required by Sections 17.11.060 and 17.11.090, shall be considered first by the Parks and Recreation Advisory Commission (PRAC) and second by the City Planning Commission. Each commission shall conduct a public hearing on the application. Notice of the PRAC hearing shall follow the procedure outlined at Section 17.135.030(C)(2). Notice of the City Planning Commission hearing shall be given by posting an enlarged notice on the premises of the subject property. At the discretion of the Director, notice of the public hearing may also be provided on utility poles within three hundred (300) feet of such park or open space land. Notice of each hearing shall also be given by mail or delivery to all persons owning real property in the city of Oakland within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. Notice shall also be provided to those community or neighborhood groups included in the Planning Department database that are within the service area radius of the impacted park. Additional outreach shall be provided through press releases and other notification as warranted by the size and location of the project.

b. The PRAC shall schedule its public hearing within forty-five (45) days after receiving the application for consideration. The PRAC shall make a recommendation to the Planning Commission at the conclusion of the hearing. In the event the PRAC has not acted on the application within forty-five (45) days, the project shall automatically be forwarded to the City Planning Commission.

c. The City Planning Commission shall determine whether the proposal conforms to the use permit criteria set forth in Section 17.11.110 and to other applicable criteria, and shall make a recommendation to grant or deny the application, or recommend such changes or impose such conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The determination of the Commission shall become final within ten (10)

calendar days after the date of the decision unless appealed to the City Council in accordance with Section 17.134.070.

2. **Minor Conditional Use Permits.**

a. An application for a minor conditional use permit, as required by Sections 17.11.060 and 17.11.090, shall be considered by the Parks and Recreation Advisory Commission prior to a final decision by the Director of City Planning. The Parks and Recreation Advisory Commission shall hold a noticed public hearing on the application and shall make a recommendation to grant or deny the application, or recommend such changes or conditions of approval as are in its judgment necessary. Notice of the public hearing shall be provided by posting an enlarged notice on the premises of the park or open space land. At the discretion of the Director, the meeting notice may also be provided on utility poles within three hundred (300) feet of such park or open space land. Notices shall also be mailed to neighborhood organizations and individuals who have expressed an interest in the subject park or project area.

b. The Director of City Planning shall determine whether the proposal conforms to the special use permit criteria set forth in Section 17.11.110 and to other applicable criteria and shall grant, deny, or conditionally grant the permit. The determination of the Director of City Planning shall become final within ten (10) calendar days after the date of the decision unless appealed to the City Planning Commission in accordance with Section 17.134.060. If no action is taken by the Director of City Planning within thirty (30) days of the Parks and Recreation Advisory Commission's recommendation, the project shall be deemed approved.

D. Appeals. Any interested party may appeal a decision of the Director of City Planning or a decision of the City Planning Commission in accordance with the provisions outlined in the conditional use permit procedure at Sections 17.134.060 and 17.134.070. In the event the last date of appeal falls on a weekend or holiday, the next date such offices are open for business shall be the last date of appeal.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12237 § 4 (part), 2000; Ord. 12078 § 4 (part), 1998)

17.135.040 Referral to Landmarks Preservation Advisory Board.

Any project in the OS Zone requiring a major or minor conditional use permit shall be subject to review by the Landmarks Preservation Advisory Board (LPAB) if that project is located:

A. Within the S-7 Zone;

B. On a site that could potentially impact a structure, site, or feature that is listed on the State or National Registers, or that has been formally designated as an Oakland landmark.

For projects requiring a minor conditional use permit, this review shall be made after the public hearing of the Parks and Recreation Advisory Commission and before the final decision of the Director of City Planning. For projects requiring a major conditional use permit, this review shall be made after the public hearing of the Parks and Recreation Advisory Commission and before the public hearing of the City Planning Commission. The Landmarks Preservation Advisory Board may recommend modifications to the project that it deems necessary to ensure

that the historic value of the structure, site, or feature is not adversely impacted. If no action is taken by the Landmarks Preservation Advisory Board within thirty (30) days of its receipt of the application, the project will be forwarded to the Planning Commission (for major conditional use permits) or the Director of City Planning (for minor conditional use permits).

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12078 § 4 (part), 1998)

17.135.050 Special requirements for projects consistent with Park Master Plans.

A. Projects in City-Owned Parks. Any improvement or change in use that is consistent with a Park Master Plan that has been adopted by the Oakland City Council shall be subject to these provisions. However, in accordance with Section 17.11.060, such projects shall be subject to the Minor Conditional Use Permit process only, even where they involve facilities or activities that would otherwise require Major Conditional Use Permits. Projects shall be eligible for this provision only if the Master Plan in question has been adopted within ten (10) years of the date of the application, or has been amended or updated with Council approval within ten (10) years of the date of the application. The determination that a project is consistent with a Park Master Plan shall be made by the Director of City Planning.

B. Projects in East Bay Regional Parks. Any improvement or change in use on land owned by the East Bay Regional Park District (EBRPD) shall be subject to the development standards contained in this Chapter. However, in accordance with Section 17.11.060, such projects shall not require a conditional use permit if they are park, recreational, or civic uses that are consistent with a Park Land Use Plan or equivalent land use planning document adopted by the EBRPD Board. In the event a land use plan or equivalent document does not exist or must be amended to accommodate the facility, preparation/amendment of such a plan by the EBRPD will be required prior to issuance of a building permit for future improvements. Such plans and plan amendments shall require public notice to abutting property owners and to the Oakland Parks and Recreation Advisory Commission, City Planning Commission, and City Council at least forty-five (45) days prior to adoption by the Park Board in order to ensure opportunity for public comment from Oakland residents.

(Ord. 12078 § 4 (part), 1998)

17.135.060 No net loss tracking.

A. Beginning on the effective date of the OS Zone regulations, the Oakland City Administrator's Office shall establish an open space tracking system. The tracking system shall be maintained in a publicly accessible format and shall be updated on a continuous basis as additions and subtractions are made to the city's park system. Beginning on the effective date of these regulations, all enclosed facilities in urban parks which exceed one hundred (100) square feet shall be tracked and recorded as "subtractions" from a baseline figure of zero. All acquisition of parkland or creation of new useable public open space shall be tracked and recorded as "additions." Only land which is improved or intended for improvement to urban park standards may be counted as "additions"; acquisition of Resource Conservation Area land is excluded. The city shall strongly encourage actions which result in a net gain of open space; in other words, a condition where the "additions" of open space in the tracking system exceed the "subtractions" resulting from new buildings and structure coverage.

B. Unless overriding considerations exist, approval of any increase in structure coverage within the OS Zone shall be contingent on a finding that there has been no net loss of urban

parkland from the time of the baseline date. If this finding cannot be made, approval shall be conditioned upon provision of replacement open space of comparable value and of an area equal to or greater than the space covered which shall be made available concurrently. Land within the jurisdiction of the Port of Oakland is exempt from this requirement and shall be excluded from this calculation.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12078 § 4 (part), 1998)

Chapter 17.136 DESIGN REVIEW PROCEDURE

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17.136.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Design Review Procedure. The purpose of these provisions is to prescribe the procedure for the review of proposals located in areas or on sites, or involving uses, which require special design treatment and consideration of relationships to the physical surroundings. This procedure shall apply to all proposals for which design review is required by the zoning regulations.

(Prior planning code § 9300)

17.136.020 Application.

A. Application for Design Review. Application for design review shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City

Planning Department and shall be filed with such Department. The application shall be accompanied by such information as may be required to allow applicable criteria to be applied to the proposal, and by the fee prescribed in the city master fee schedule. Such information may include, but is not limited to, site and building plans, elevations, and relationships to adjacent properties.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11892 § 22, 1996; Ord. 11816 § 2 (part), 1995: prior planning code § 9302)

17.136.025 Exemptions from design review.

A. Applicability. A proposal will be exempt from design review if it meets each of the provisions set forth below. All such determinations are final and not appealable:

1. The proposal is limited to one or more of the types of work listed as exempt from design review in Section 17.136.025B;
2. The proposal does not require Regular Design Review, a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code;
3. The proposal is determined exempt from the California Environmental Quality Act (CEQA);
4. All exterior treatments visually match the existing or historical design of the building; and
5. The proposal will not have a significant effect on the structure's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a structure as representative of its period and contribute to its visual distinction or historical significance.

B. Definition. The following types of work are exempt from design review, pursuant to all provisions in Section 17.136.025(A):

1. Additions or Alterations.
   a. Projects not requiring a building permit, except if otherwise specified below;
   b. Repair or replacement of existing building components in a manner that visually matches the existing or historical design of the structure;
   c. After notice to the Director of City Planning, demolition or removal of either:
      i) Structures declared to be unsafe by the Building Official or the City Council. "Unsafe structures" means structures found by the Building Official or the City Council, to require immediate issuance of a demolition permit to protect the public health and safety; or
      ii) Structures declared to be a public nuisance by the Building Official or City Council that are not Designated Historic Properties or Potentially Designated Historic Properties.
   d. Secondary Units of five hundred (500) square feet or less on a lot with only one existing or proposed primary dwelling unit, pursuant to all regulations in Section 17.103.080;

e. Floor area additions within the existing building envelope not involving the creation of a dwelling unit;

f. Except as otherwise specified in Subsection B.1.g for Nonresidential Facilities in the D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C and CIX-1D Zones, cumulative additions over a three (3) year period not involving the creation of a dwelling unit that are outside the existing building envelope and equal no more than ten percent (10%) of the total floor area or footprint on site;

g. For Nonresidential Facilities in the D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C and CIX-1D Zones, cumulative additions over a three (3) year period that are outside the existing building envelope and equal no more than fifty percent (50%) of the total floor area or footprint on site or three thousand (3,000) square feet, whichever is less;

h. For Commercial, Civic, or Industrial Facilities and the Nonresidential Portions of Mixed-Use Development Projects, any addition or alteration on a roof that does not project above the existing parapet walls; and any addition or alteration not otherwise exempt which is used as a loading dock, recycling area, utility area, or similar open structure addition that is no higher than six (6) feet above finished grade, less than five hundred (500) square feet in floor area or footprint, and is visually screened from neighboring properties; such exemptions shall only permitted where the proposal conforms with all Buffering regulations in Chapter 17.110 and all Performance Standards in Chapter 17.120;

i. Areas of porch, deck or balcony with a surface that is less than thirty (30) inches above finished grade.

2. Signs.

a. A change of sign face copy or new sign face within an existing Advertisement Sign or a change of sign face copy within Business or Civic Sign structures so long as the structure and framework of the sign remain unchanged and the new sign face duplicates the colors of the original or, in the case of an internally illuminated sign, the letter copy is light in color and the background is dark;

b. Installation, alteration or removal of Realty Signs, Development Signs, holiday decorations, displays behind a display window and, except as otherwise provided in Section 17.114.120(C), for mere changes of copy, including cutouts, on Signs which customarily involve periodic changes of copy;

c. New or modified Signs conforming to an approved Master Sign Program, pursuant to Section 17.104.070.

3. Other Projects.

a. Sidewalk Cafes that have a maximum of five (5) tables and no more than fifteen (15) chairs and/or do not have any permanent structures in the public right-of-way, pursuant to Section 17.103.090;

b. Solar Power Production Equipment. The installation of Solar Power Production Equipment is exempt from design review within any zoning district.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12417 § 1, 2002)

17.136.030 Small project design review.

A. Applicability. "Small Project Design Review" shall apply to proposals that do not qualify for an exemption from design review as set forth in Section 17.136.025, or require Special Project Design Review as set forth in Section 17.136.038, or Regular Design Review as either determined by the Director of City Planning or as set forth in Section 17.136.040. "Small Project Design Review" proposals shall meet all of the following provisions:

1. The proposal is limited to one or more of the types of work listed as a "Small Project" in Section 17.136.030(B);
2. The proposal does not require a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code;
3. The proposal is determined exempt from the California Environmental Quality Act (CEQA); and
4. The proposal will not have a significant effect on the property's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance.

B. Definition of "Small Project". Small Projects are limited to one or more of the following types of work:

1. Additions or Alterations.
   a. Repair or replacement of existing building components in a manner that is compatible with, but not necessarily identical to, the property's existing or historical design;
   b. Except as otherwise specified in Sections 17.136.025, 17.136.038, 17.136.040, and 17.136.075, demolition or removal of structures not involving a Designated Historic Property or Potential Designated Historic Property, on a site where the zoning regulations require design review to alter the exterior appearance of the applicable building facility, regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Section 15.36.080;
   c. Except as otherwise specified in Sections 17.136.025 and 17.136.038 for Nonresidential Facilities in the D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C and CIX-1D Zones, cumulative additions over a three (3) year period not involving the creation of a dwelling unit that are outside the existing building envelope and equal more than ten percent (10%) of the total floor area or footprint on site, but do not exceed one thousand (1,000) square feet or one hundred percent (100%) of the total floor area or footprint on site, whichever is less;
   d. Secondary Units of more than five hundred (500) square feet in floor area, but not exceeding seven hundred fifty (750) square feet or seventy-five percent (75%) of the floor area of the primary dwelling unit, whichever is less, pursuant to all regulations in Section 17.103.080;
   e. For Commercial, Civic, or Industrial Facilities and the non-residential portions of mixed-use development projects, changes to storefronts or street-fronting facades, such as: (i) replacement or construction of doors, windows; bulkheads and nonstructural wall infill, or (ii) restoration of documented historic fabric.

2. Fences, barriers, and similar freestanding walls.

   a. For Residential Zones and Residential Facilities, any fence, barrier, or similar freestanding wall exceeding forty-two (42) inches in height in the front yard and street-side yards, but not exceeding six (6) feet in height, pursuant to Section 17.108.140;

   b. For Commercial Zones, Industrial Zones, and S-1, S-2, S-3, S-15, and D-CO-1 Zones, any fence, barrier, or similar freestanding wall exceeding eight (8) feet in height within ten (10) feet of any abutting property in a Residential Zone, but not exceeding ten (10) feet in height, pursuant to Section 17.108.140.

3. Signs.

   a. New or modified Signs, excluding Signs requiring Regular Design Review, Conditional Use Permit or Variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code; and Signs conforming to an approved Master Sign Program, pursuant to Section 17.104.070;

   b. New or modified awnings or other similar facilities;

   c. Color changes to Signs, awnings or other similar facilities;

   d. Installation of flags or banners having any permanent structure within the public right of way, pursuant to the same regulations for sidewalk cafes in Section 17.103.090.B.

C. Procedures for Consideration—Small Project Design Review. The Director of City Planning may, at his or her discretion, consider an application for Small project design review according to the following Three-Track process, or if additional consideration is required, determine that the proposal shall be reviewed according to the Regular design review procedure in Section 17.136.040.

1. Track One Procedure—Small Project Design Review Proposals Not Involving a Local Register Property; or an Upper-Story Addition requiring the Track Three review procedure pursuant to Subsection C.3.:

   a. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for small project design review as set forth in this Section.

   b. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track Two proposal determined eligible for small project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable small project design review criteria in Section 17.136.035.

   c. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

2. Track Two Procedure—Small Project Design Review Proposals Involving a Local Register Property:

   a. The Director of City Planning, in concert with the City of Oakland's Historic Preservation staff, shall determine whether a proposed addition or alteration involving a Local Register Property will have a significant effect on the property's character-defining elements. "Character-defining elements" are those features of

design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. Any proposed addition or alteration determined to have a significant effect on a Local Register Property's character-defining elements shall be reviewed instead according to the regular design review procedure in Section 17.136.040. Any proposed addition involving an upper-story addition of more than two hundred fifty (250) square feet in floor area or footprint to a One- or Two-Family Residential Facility or to any Building Facility in the HBX, D-CE-3, or D-CE-4 Zones that is determined eligible for small project design review and to not have a significant effect on the property's character-defining elements, shall be reviewed according to the Track Three procedure in Subsection 17.136.030.C.3.

b. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track Two proposal determined eligible for Small project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable Small project design review criteria in Section 17.136.035.

c. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

3. Track Three Procedure—Small Project Design Review Proposals Involving an Upper-Story Addition of More than Two Hundred Fifty (250) Square Feet in Floor Area or Footprint to a One- or Two-Family Residential Facility or an over eight (8) foot increase in the height of any Building Facility in the HBX Zones, not including allowed projections above the height limits listed in Section 17.108.030.

a. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for Small project design review as set forth in this Section.

b. At the time of small project design review application, the owner of the affected property, or his or her authorized agent, shall obtain from the City Planning Department, a list of names and mailing addresses of all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site; a notice poster to install on the project site; and a Notice to Neighboring Property Owners form which includes the project description and contact information.

c. Prior to the subject application being deemed complete, the applicant shall install the notice poster provided at the time of application at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot; and provide by certified mail or delivery to all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site, a copy of the completed project notice form, as well as a set of reduced plans (consisting of at least a site plan and building elevations that show all proposed exterior work).

d. All required posting of the site and notification of adjacent and across the street property owners shall be completed by the project applicant not less than ten (10) days prior to the earliest date for final decision on the application. During the required noticing period, the Planning Department shall receive and consider

comments from any interested party, as well as accept requests for a meeting with City Planning staff.

e. Decision by the Director of City Planning. Prior to final decision, City Planning staff shall hold a single meeting with interested parties whenever such a meeting request is received in writing by the Planning Department during the small project design review comment period. Following any such meeting with interested parties, the Director, or his or her designee, may approve or disapprove a Track Three proposal determined eligible for small project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable small project design review criteria in Section 17.136.035.

f. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006)

17.136.035 Small project design review criteria.

A Small project design review approval shall be granted for proposals that conform to each of the applicable criteria set forth in Subdivisions (1), (2), and (3) below, and if also applicable, to the criteria in Subdivision (4), below:

1. That for Nonresidential Facilities and the nonresidential portions of Mixed Use Development projects, the proposed design conforms with the adopted checklist criteria for nonresidential facilities, as may be amended;
2. That for Residential Facilities with one (1) or two (2) primary dwelling units and the residential portions of Mixed Use Development projects with one (1) or two (2) primary dwelling units, the proposed design conforms with the adopted checklist criteria for facilities with 1-2 primary dwelling units, as may be amended;
3. That for Residential Facilities with three (3) or more living units and the residential portions of Mixed Use Development projects with three (3) or more dwelling units, the proposed design conforms with the adopted checklist criteria for facilities with three (3) or more living units, as may be amended;
4. That for Local Register Properties, the proposed project will not substantially impair the visual, architectural, or historic value of the affected site or facility.

(Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006)

17.136.038 Special project design review.

A. Applicability. "Special Project Design Review" shall apply to Nonresidential Facilities in the D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C and CIX-1D Zones that require design review pursuant to the zoning regulations of Title 17 of the Oakland Planning Code, but do not qualify for design review exemption as set forth in Section 17.136.025 or Small project design review as set forth in Section 17.136.030; or require Regular Design Review as either determined by the Director of City Planning or as set forth in Section 17.136.075 and Chapter 17.73.

"Special Project Design Review" proposals shall meet all of the following provisions:

1. The proposal is limited to one or more of the types of work listed as a "Special Project" in Section 17.136.038(B);
2. The proposal does not require a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code;
3. The proposal is determined exempt from the California Environmental Quality Act (CEQA). and
4. The proposal does not involve the demolition or removal of structures on a site in the CIX-1A Zone as specified in Section 17.136.075, regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Section 15.36.080.

B. Definition of "Special Project". Special Projects are limited to one or more of the following types of work:

1. Cumulative additions to Non-residential Facilities in the D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones over a three (3) year period that are outside the existing building envelope and exceed three thousand (3,000) square feet or fifty percent (50%) of the total floor area or footprint on site, whichever is less;
2. New construction of principal Non-residential Facilities in the D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones.

C. Procedures for Consideration—Special Project Design Review. The Director of City Planning shall consider an application for Special project design review according to the following Two-Track process, or if additional consideration is required, determine that the proposal shall be reviewed instead according to the Regular design review procedure in Section 17.136.040.

1. Track One Procedure—Special Project Design Review Proposals Not Involving a Local Register Property:

   a. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for Special project design review as set forth in this Section.

   b. At the time of Special project design review application, the owner of the affected property, or his or her authorized agent, shall obtain from the City Planning Department, a list of names and mailing addresses of all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site; a notice poster to install on the project site; and a Notice to Neighboring Property Owners form which includes the project description and contact information.

   c. Prior to the subject application being deemed complete, the applicant shall install the notice poster provided at the time of application at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot; and provide by certified mail or delivery to all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site, a copy of the completed project notice form, as well as a set of reduced plans (consisting of at least a site plan and building elevations that show all proposed exterior work).

d. All required posting of the site and notification of adjacent and across the street property owners shall be completed by the project applicant not less than ten (10) days prior to the earliest date for final decision on the application. During the required noticing period, the Planning Department shall receive and consider comments from any interested party.

e. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track One proposal determined eligible for Special project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable Special project design review criteria in Section 17.136.038(D).

f. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

2. Track Two Procedure—Special Project Design Review Proposals Involving a Local Register Property:

a. The Director of City Planning, in concert with the City of Oakland's Historic Preservation staff, shall determine whether a proposal involving a Local Register Property will have a significant effect on the property's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. Any proposal determined to have a significant effect on a Local Register Property's character-defining elements shall be reviewed instead according to the Regular design review procedure in Section 17.136.040.

b. At the time of Special project design review application, the owner of the affected property, or his or her authorized agent, shall obtain from the City Planning Department, a list of names and mailing addresses of all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site; a notice poster to install on the project site; and a Notice to Neighboring Property Owners form which includes the project description and contact information.

c. Prior to the subject application being deemed complete, the applicant shall install the notice poster provided at the time of application at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot; and provide by certified mail or delivery to all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site, a copy of the completed project notice form, as well as a set of reduced plans (consisting of at least a site plan and building elevations that show all proposed exterior work).

d. All required posting of the site and notification of adjacent and across the street property owners shall be completed by the project applicant not less than ten (10) days prior to the earliest date for final decision on the application. During the required noticing period, the Planning Department shall receive and consider comments from any interested party.

e. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track Two proposal determined eligible for Special

project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable Special project design review criteria in Section 17.136.038(D).

f. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

D. Design Review Criteria—Special Project Design Review. A Special project design review approval shall be granted for proposals that conform with the adopted checklist criteria for Non-residential Facilities in the Coliseum Specific Plan Area D-CO-5 and D-CO-6 Zones or West Oakland Specific Plan Area CIX-1A, CIX-1B, CIX-1C and CIX-1D Zones, as may be amended, based on applicable design review guidelines or criteria which have been adopted by the Planning Commission or City Council as part of the Coliseum Area Specific Plan or the West Oakland Specific Plan.

17.136.040 Regular design review.

A. Applicability. "Regular design review" shall apply to proposals that require design review pursuant to the zoning regulations of Title 17 of the Oakland Planning Code, but do not qualify for a design review exemption as set forth in Section 17.136.025, Small project design review as set forth in Section 17.136.030, or Special project design review as set forth in Section 17.136.038. Except as otherwise specified in Section 17.136.038 for Nonresidential Facilities in the D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones, projects requiring Regular design review include, but are not limited to, the following types of work:

1. Any proposal involving one or more of the facility, activity, building, structure, or development types that require design review pursuant to the zoning regulations of Title 17 of the Oakland Planning Code, but does not qualify for a design review exemption as set forth in Section 17.136.025, small project design review as set forth in Section 17.136.030, or special project design review as set forth in Section 17.136.038;

2. Any construction, addition or alteration of structures requiring a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code;

3. New construction of one (1) or two (2) dwelling units, other than a Secondary Unit;

4. New construction of three (3) or more dwelling units, or adding units to a property for a total of three (3) or more dwelling units on site;

5. New construction of principal facilities in the HBX or D-CE Zones;

6. The creation of any new HBX Work/Live unit or HBX Live/Work unit (see Sections 17.65.160 and 17.65.170); any new D-CE Work/Live unit or D-CE Live/Work unit (see Sections 17,101E.070 and 17.101E.080); or any new CIX, IG, or IO Work/Live unit (see Section 17.73.040). This requirement shall apply for both: a) conversions of existing facilities to contain any of these unit types, and b) the construction of new buildings that contain any of these unit types;

7. Cumulative additions over a three (3) year period not involving the creation of a dwelling unit that are outside the existing building envelope and exceed one thousand

(1,000) square feet or one hundred percent (100%) of the total floor area or footprint on site, whichever is less;

8. Exceptions to the parking accommodation requirements for One- and Two-Family Residential Facilities in Section 17.116.075;

9. New or modified Signs not qualifying for a design review exemption as set forth in Section 17.136.025 or small project design review as set forth in Section 17.136.030;

10. Proposals for new or modified Telecommunications Facilities, pursuant to Chapter 17.128, but excluding those alterations to existing Telecommunications Facilities listed as a Small Project in Subsection 17.136.030.B.;

11. Demolition or removal of any structure, or portion thereof, where the replacement project requires Regular Design Review, Conditional Use Permit or Variance;

12. Demolition or removal of any Designated Historic Property (DHP), Potential Designated Historic Property (PDHP), or structure in the CIX-1A Zone pursuant to Section 17.136.075.

B. Pre-Application Review—Regular Design Review. Prior to application for regular design review, any applicant or his or her representative seeking early project feedback may submit for a pre-application review of the proposal by a representative of the City Planning Department. For projects of a larger scale or involving a significant policy issue, the Director of City Planning may, at his or her discretion, request that an applicant or his or her representative submit for a pre-application review of the proposal. During a pre-application review, the City representative will provide information about applicable design review criteria and pertinent procedures, including the opportunity for advice from outside design professionals. Where appropriate the City representative may also informally discuss possible design solutions, point out potential neighborhood concerns, and mention local organizations which the applicant is encouraged to contact before finalizing the proposal.

C. Procedure for Consideration of Regular Design Review Proposals which Involve an Initial Decision by the Director of City Planning—Decisions Not Ultimately Appealable to City Council.

1. Decision by the Director of City Planning. An application for regular design review that is not referred to the City Planning Commission for initial decision as specified in Section 17.136.040(D) shall be considered by the Director of City Planning.

2. Notification Procedures. Notice shall be given by posting an enlarged notice at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot. Notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the City within three hundred (300) feet of the project site; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for decision on the application by the Director. During the required noticing period, the planning department shall receive and consider comments from any interested party.

3. The Director or the applicant may seek the advice of outside design professionals. Any interested party must enter into the record any issues and/or evidence to the Director prior to the close of the written public comment period for his or her consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. The Director shall determine whether the proposal conforms to

the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria.

4. Finality of Decision. A decision by the Director shall become final ten (10) calendar days after the date of initial decision unless appealed to the City Planning Commission or the Commission's Residential Appeals Committee in accordance with Section 17.136.080. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Director prior to the close of the written public comment period. In the event that the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Appeals considered by the City Planning Commission or the Commission's Residential Appeals Committee under the procedures specified in Section 17.136.080 shall be final immediately and are not ultimately appealable to the City Council.

D. Procedure for Consideration of Regular Design Review Proposals which Involve an Initial Decision by the City Planning Commission—Decisions Ultimately Appealable to City Council.

1. Decision by the City Planning Commission. The Director of City Planning may, at his or her discretion, refer an application for Regular design review to the City Planning Commission for an initial decision rather than acting on it himself or herself. In this case, the application shall still be considered a minor permit, but shall be processed according to the procedure in this Subsection. In these instances, any other minor permits associated with the application shall be considered concurrently by the Planning Commission, pursuant to Section 17.130.090. However, if the project involves a major variance or major conditional use permit; requires an Environmental Impact Report (EIR); or results in more than twenty-five thousand (25,000) square feet of new nonresidential floor area and is located in any zone other than the R-80, CBD-R, CBD-P (when not combined with the S-7 Zone), CBD-C, CBD-X, S-2, D-LM, D-CO, or S-15 Zones, the Director of City Planning shall refer the application to the City Planning Commission for an initial decision rather than acting on it himself or herself.

2. Notification Procedures. Notice shall be given by posting an enlarged notice at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot. Notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the City within three hundred (300) feet of the project site; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for a hearing before the Commission. During the required noticing period, the planning department shall receive and consider comments from any interested party.

3. The Planning Commission may seek the advice of outside design professionals. While the hearing is open, any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. The Commission shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable

conditions of approval as are in his or her or its judgment necessary to ensure conformity to said criteria.

4. Finality of Decision. The initial decision of the Planning Commission shall become final ten (10) days after the date of decision unless appealed to the City Council in accordance with Section 17.136.090. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on the matter, in accordance with the above procedures. In the event that the last day of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

E. Alternative Notification Procedures. If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set forth in Subsections C. and D. of this Section.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12971, § 2(Exh. A), 9-22-2009; Ord. No. 12955, § 2(Exh. A), 7-21-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: Ord. 12237 § 4 (part), 2000; Ord. 11816 § 2 (part), 1995: prior planning code § 9305)

17.136.050 Regular design review criteria.

Regular design review approval may be granted only if the proposal conforms to all of the following general design review criteria, as well as to any and all other applicable design review criteria:

A. For Residential Facilities.

1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures:

2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics;

3. That the proposed design will be sensitive to the topography and landscape.

4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill;

5. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

B. For Nonresidential Facilities and Signs.

1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design

which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060;

2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;

3. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

C. For Local Register Properties that are not Landmarks or located in the S-7 or S-20 Zone:

1. That for additions or alterations, the proposal will not substantially impair the visual, architectural, or historic value of the affected site or facility. Consideration shall he given to design, form, scale, materials, texture, lighting, landscaping, Signs, and any other relevant design element or effect, and, where applicable, the relation of the above to the original design of the affected facility.

D. For Potential Designated Historic Properties that are not Local Register Properties: That for additions or alterations,

1. The design matches or is compatible with, but not necessarily identical to, the property's existing or historical design; or

2. The proposed design comprehensively modifies and is at least equal in quality to the existing design and is compatible with the character of the neighborhood; or

3. The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

E. For Retaining Walls:

1. That the retaining wall is consistent with the overall building and site design and respects the natural landscape and topography of the site and surrounding areas;

2. That the retaining wall is responsive to human scale, avoiding large, blank, uninterrupted or undesigned vertical surfaces;

3. That the retaining wall respects the natural topography, avoiding obvious scars on the land;

4. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: Ord. 11816 § 2 (part), 1995; prior planning code § 9306)

17.136.055 Special regulations for historic properties in the Central Business District and the Lake Merritt Station Area District Zones.

A. The provisions of this Section shall only apply to proposals in the Central Business District (CBD) Zones and Lake Merritt Station Area District (D-LM) Zones.

B. Findings.

1. Any exterior alteration to a character-defining element of a Designated Historic Property (DHP) or Potentially Designated Historic Property (PDHP) that: 1) does not match its exterior historical materials or appearance, and 2) is part of the existing building (not part of any proposed addition) shall be required to meet any applicable criteria in Chapter 17.136 and meet findings (a) and (b), below. The determination of whether a project meets these findings requires consultation with Historic Preservation staff.

   a. Any replacements of exterior character-defining elements are required because repair is not feasible. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance; and

   b. Consultation with Historic Preservation staff has determined that any replacement or repair that differs from the original feature is compatible with the character of the building, Area of Primary Importance (API) or Area of Secondary Importance (ASI), if applicable, and retains the character-defining appearance of the feature.

2. Approval of applications for projects in an API that require Regular Design Review approval may be granted only upon determination that the proposal conforms to any applicable criteria in Chapter 17.136 and to the following additional criteria:

   a. Any proposed new construction is compatible with the existing API in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and intensity of detailing;

   b. New street frontage has forms that reflect the widths and rhythm of the facades on the street, and entrances that reflect the patterns on the street;

   c. The proposal provides high visual interest that either reflects the level and quality of visual interest of the API contributors or otherwise enhances the visual interest of the API;

   d. The proposal is consistent with the visual cohesiveness of the API. For the purpose of this finding, visual cohesiveness is the architectural character, the sum of all visual aspects, features, and materials that defines the API. A new structure contributes to the visual cohesiveness of a district if it relates to the design characteristics of a historic district while also conveying its own time. New construction may do so by drawing upon some basic building features, such as the way in which a building is located on its site, the manner in which it relates to the street, its basic mass, form, direction or orientation (horizontal vs. vertical), recesses and projections, quality of materials, patterns of openings and level of detailing. When some combination of these design variables are arranged in a new building to relate to those seen traditionally in the area, but integral to the design and character of the proposed new construction, visual cohesiveness results;

   e. Where height is a character-defining element of the API there are height transitions to any neighboring contributing historic buildings. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. APIs with a character-

defining height and their character-defining height level are designated on the zoning maps; and

f. For additions, the proposal meets either: 1) Secretary of Interior's standards for the treatment of historic resources; 2) the proposal will not adversely affect the character of the property or API; or, 3) upon the granting of a conditional use permit, (see Chapter 17.134 for the CUP procedure) and a hearing in front of the Landmarks Preservation Advisory Board for its recommendations, a project meets the additional findings in Subsection g., below.

g. For construction of new principal buildings:

i. The project will not cause the API to lose its status as an API;

ii. The proposal will result in a building or addition with exterior visual quality, craftsmanship, detailing, and high quality and durable materials that is at least equal to that of the API contributors; and

iii. The proposal contains elements that relate to the character-defining height of the API, if any, through the use of a combination of upper story setbacks, window patterns, change of materials, prominent cornice lines, or other techniques. APIs with a character-defining height and their character-defining height level are designated on the zoning maps.

3. Approval of an application for a project that requires Regular Design Review Approval involving a DHP or PDHP outside of an API may be granted only upon determination that the proposal conforms to any applicable criteria in Chapter 17.136 and either meets each criteria (a), (b), and (c), or only (d), below:

a. Any proposed new construction is compatible with the existing district and/or building in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and intensity of detailing;

b. The proposal reflects the quality and visual interest of the building and/or ASI, or otherwise enhances the visual interest of the building or ASI;

c. The proposal does not disqualify an ASI as an ASI; and

d. If a project does not meet either finding (a), (b), or (c), above, approval of applications for projects may still be granted, but only after a hearing in front of the Landmarks Preservation Advisory Board for its recommendations and determination that the proposal meets the following criteria: The proposal will result in a signature building within the neighborhood, City, or region based on qualities including, but not necessarily limited to, exterior visual quality, craftsmanship, detailing, and high quality and durable materials.

C. Required Hearings in Front of the Landmarks Preservation Advisory Board (LPAB).

1. Prior to project approval, the following projects require a hearing in front of the LPAB for its recommendations and/or advice to the decision making body:

a. Any construction of a new principal building in an API;

b. An addition to an API contributor when required by Subsection 17.136.055.B.2.f.

c. With the exception of additions that are not visible from a street or other public area, projects in an API that would result in a building taller than the character-defining height of the district, if any. Districts with a character-defining height and their character-defining height levels are designated on the zoning maps. An

addition is considered "visible from a street or other public area" if it is located within the "critical design area," defined as the area within forty (40) feet of any street line, public alley, public path, park or other public area.

d. New construction or an addition to a building when required by Subsection 17.136.055.B.3.d.

e. Any proposal involving a Local Register Property that requires Regular Design Review approval.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12955, § 2(Exh. A), 7-21-2009)

17.136.060 Review by Landmarks Board in certain cases.

A. Whenever an application is for regular design review in the S-7 Zone, or on a designated landmark site, the Director of City Planning shall refer the proposal to the Landmarks Preservation Advisory Board for its recommendations.

B. Whenever an application is for regular design review in the S-20 Zone, and the Director of City Planning determines that a proposed addition or alteration will have a significant effect on the property's character-defining elements that are visible from a street or other public area, the Director may, at his or her discretion, refer the project to the Landmarks Preservation Advisory Board for its recommendations. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. An addition or alteration is normally considered "visible from a street or other public area" if it affects a street face or public face of the facility or is otherwise located within the "critical design area," defined as the area within forty (40) feet of any street line, public alley, public path, park or other public area.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11816 § 2 (part), 1995: prior planning code § 9303)

17.136.070 Special regulations for designated landmarks.

A. **Designation.** In any zone, the City Council may designate as a landmark any facility, portion thereof, or group of facilities which has special character, interest, or value of any of the types referred to in Section 17.07.030P. The designating ordinance for each landmark shall include a description of the characteristics of the landmark which justify its designation and a clear description of the particular features that should be preserved. Each ordinance shall also include the location and boundaries of a landmark site, which shall be the lot, or other appropriate immediate setting, containing the landmark. Designation of each landmark and landmark site shall be pursuant to the rezoning and law change procedure in Chapter 17.144.

B. **Design Review for Construction or Alteration.** 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 on any designated landmark site shall be constructed or established, or altered in such a manner as to affect exterior appearance unless plans for the proposal have been approved pursuant to the design review procedure in this Chapter and the applicable provisions of this Section. Furthermore, for a publicly-owned landmark, the designating ordinance may require such approval of proposed changes to major interior architectural features.

C. **Regular Design Review Criteria.** Proposals involving designated landmarks that require Regular design review approval may be granted only upon determination that the proposal conforms to the Regular design review criteria set forth in Section 17.136.050 and to the additional criteria set forth below in Subdivisions 1, 2 and 3 or to one or both of the criteria set forth in Subdivision 4:

1. That the proposal will not adversely affect the exterior features of the designated landmark nor, when subject to control as specified in the designating ordinance for a publicly-owned landmark, its major interior architectural features;
2. That the proposal will not adversely affect the special character, interest, or value of the landmark and its site, as viewed both in themselves and in their setting;
3. That the proposal conforms with the Design Guidelines for Landmarks and Preservation Districts as adopted by the City Planning Commission and, as applicable for certain federally-related projects, with the Secretary of the Interior's Standards for the Treatment of Historic Properties;
4. If the proposal does not conform to the criteria set forth in Subdivisions 1, 2 and 3:
   i. That the designated landmark or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it, or
   ii. That, considering the economic feasibility of alternatives to the proposal, and balancing the interest of the public in protecting the designated landmark or portion thereof, and the interest of the owner of the landmark site in the utilization thereof, approval is required by considerations of equity.

D. **Duty to Keep in Good Repair.** Except as otherwise authorized under Subsections B. and C. of this Section, the owner, lessee, or other person in actual charge of each designated landmark shall keep good repair all of the exterior portions thereof, all of the interior portions thereof when subject to control as specified in the designating ordinance, and all interior portions thereof the maintenance of which is necessary to prevent deterioration and decay of any exterior portion.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13028, § 2(Exh. A), 7-20-2010; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12513 Attach. A (part), 2003: Ord. 12237 § 4 (part), 2000; prior planning code § 7002)

17.136.075 Regulations for demolition or removal of CIX-1A zoned properties, Designated Historic Properties, and Potentially Designated Historic Properties.

A. With the exception of structures declared to be a public nuisance by the Building Official or City Council, Regular Design Review of the demolition or removal of a Designated Historic Property (DHP) or Potentially Designated Historic Property (PDHP) shall only be approved after the Regular Design Review of a replacement project at the subject site has been approved; however, demolition of nuisance structures must still undergo Regular Design Review for demolition as required by this Chapter.

B. Regular Design Review approval for the demolition or removal of any Landmark, Heritage Property, structure rated "A" or "B" by the Oakland Cultural Heritage Survey, and structure on the City's Preservation Study List that are not in an S-7 or S-20 Zone, or Area of Primary Importance (API) as determined by the Oakland Cultural Heritage Survey may be granted only if the proposal conforms to the Regular design review criteria, all other applicable design review criteria, and the following additional criteria:

1. The applicant demonstrates that: a) the existing property has no reasonable use or cannot generate a reasonable economic return and that the development replacing it will provide such use or generate such return, or b) the applicant demonstrates that the structure constitutes a hazard and is economically infeasible to rehabilitate on its present site. For this finding, a hazard constitutes a threat to health and safety that is not immediate;
2. If a replacement facility is required by Subsection 17.136.075.A., the design quality of the replacement facility is equal or superior to that of the existing facility; and
3. It is economically, functionally architecturally, or structurally infeasible to incorporate the historic structure into the proposed development.

C. Regular Design Review Approval for the demolition or removal of any structure in the CIX-1A Zone, or an S-7 or S-20 Zone, or an Area of Primary Importance (API) as determined by the Oakland Cultural Heritage Survey may be granted only if the proposal conforms to the general design review criteria, all other applicable design review criteria, and the following additional criteria:

1. For the demolition of structures in the CIX-1A Zone; or contributors to an S-7 Zone, S-20 Zone, or API:
   a. The applicant demonstrates that: i) the existing property has no reasonable use or cannot generate a reasonable economic return and that the development replacing it will provide such use or generates such return, or ii) the applicant demonstrates that the structure constitutes a hazard and is economically infeasible to rehabilitate on its present site. For this criterion, a hazard constitutes a threat to health and safety that is not immediate; and
   b. It is economically, functionally, architecturally, or structurally infeasible to incorporate the historic structure, or existing structure in the CIX-1A Zone, into the proposed development.
2. For the demolition of noncontributors to an S-7 Zone, S-20 Zone, or API: The existing structure is either: i) seriously deteriorated or a hazard; or ii) the existing design is undistinguished and does not warrant retention. For this finding, a hazard constitutes a threat to health and safety that is not immediate;
3. For the demolition of any structure in an S-7 Zone, S-20 Zone, or API:
   a. The design quality of the replacement structure is equal/superior to that of the existing structure; and
   b. The design of the replacement project is compatible with the character of the district, and there is no erosion of design quality at the replacement project site and in the surrounding area. This includes, but is not necessarily limited to, the following additional findings:
      i. The replacement project is compatible with the district in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and intensity of detailing;
      ii. New street frontage includes forms that reflect the widths and rhythm of the facades on the street and entrances that reflect the patterns on the street;
      iii. The replacement project provides high visual interest that either reflects the level and quality of visual interest of the district contributors or otherwise enhances the visual interest of the district;

iv. If the design contrasts the new to the historic character, the replacement project enriches the historic character of the district;

v. The replacement project is consistent with the visual cohesiveness of the district. For the purpose of this item, visual cohesiveness is the architectural character, the sum of all visual aspects, features, and materials that defines the district. A new structure contributes to the visual cohesiveness of a district if it relates to the design characteristics of a historic district. New construction may do so by drawing upon some basic building features, such as the way in which a building is located on its site, the manner in which it relates to the street, its basic mass, form, direction or orientation (horizontal vs. vertical), recesses and projections, quality of materials, patterns of openings and level of detailing. When a combination of some of these design variables are arranged in a new building to relate to those seen traditionally in the area, but integral to the design and character of the proposed new construction, visual cohesiveness results; and

vi. The replacement project will not cause the district to lose its current historic status.

D. Regular Design Review Approval for the demolition or removal of any structure rated "C" by the Oakland Cultural Heritage Survey or contributes to an Area of Secondary Importance (ASI) as determined by the Oakland Cultural Heritage Survey may be granted only if the proposal conforms to the general design review criteria, all other applicable design review criteria, and to either: 1., 2., or 3., below:

1. The design quality of the proposed replacement project is at least equal to that of the original structure and the proposed replacement project is compatible with the character of the neighborhood; or

2. The public benefits of the proposed replacement project outweigh the benefit of retaining the original structure and the proposed replacement project is compatible with the character of the neighborhood; or

3. The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

E. For proposals that have received Design Review approval pursuant to this Section, the issuance of a demolition permit for any structure or portion thereof may be postponed by the Director of City Planning for a period not to exceed one hundred twenty (120) days from the date of application for such permit. The Director may do so upon determination that the structure or portion thereof is listed as a Local Register Property, or is on a study list of facilities under serious study by the Landmarks Preservation Advisory Board, the City Planning Commission, or the Director, for possible landmark designation under Section 17.136.070 or for other appropriate action to preserve it. During the period of postponement the Board, the Commission, or the Director shall explore means for preserving or restoring the structure or portion thereof. However, demolition may not be postponed under this Section if, after notice to the Director of City Planning, the Building Services Department, the Housing Conservation Division, their respective appeals boards, or the City Council determines that immediate demolition is necessary to protect the public health or safety. Any determination made by the Director of City Planning under this Section may be appealed pursuant to the administrative appeal procedure in Chapter 17.132.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13028, § 2(Exh. A), 7-20-2010)

Editor's note—

Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010, amended Section 17.136.075 in its entirety to read as herein set out. Formerly, Section 17.136.075 pertained to postponement of demolition, and derived from the prior planning code, § 7005, and Ord. No. 12776, § 3, Exh. A (part), adopted in 2006.

17.136.080 Appeal to Planning Commission—Regular design review.

Within ten (10) calendar days after the date of initial decision by the Director of City Planning on an application for regular design review under the procedure specified in Subsection 17.136.040.C, an appeal from said decision may be taken to the City Planning Commission by the applicant, the Landmarks Preservation Advisory Board, or any other interested party. In the case of appeals involving one- or two-unit Residential Facilities, the appeal shall be considered by the Commission's Residential Appeals Committee. In the event the last day of appeal falls on a weekend or holiday when City offices are closed, the next date offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Director of City Planning prior to the close of the written public comment period on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of such appeal, the Secretary of the City Planning Commission shall set the time for consideration thereof. Not less than seventeen (17) days prior to the date of the Commission's or Committee's consideration of the appeal, the Secretary shall give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented to the Director of City Planning prior to the close of the written public comment period for the underlying decision being appealed, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The Commission or, if applicable, the Committee may seek the advice of outside design professionals. The decision of the Commission or, if applicable, the Committee on a proposal being considered under the procedure specified in Subsection 17.136.040.C. shall be final immediately and is not ultimately appealable to the City Council.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: Ord. 11816 § 2 (part), 1995: prior planning code § 9307)

17.136.090 Appeal to City Council—Regular design review.

Within ten (10) calendar days after the date of initial decision by the City Planning Commission on an application for regular design review under the procedure specified in Subsection 17.136.040.D, an appeal from said decision may be taken to the City Council by the applicant, the Landmarks Preservation Advisory Board, or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. No such appeal to the City Council is allowable under the procedure specified in Subsection 17.136.040.C. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of the appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal.

The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item, in accordance with the above procedures, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Council shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11816 § 2 (part), 1995: prior planning code § 9308)

17.136.100 Adherence to approved plans.

A design review approval shall be subject to the plans and other conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the approval shall terminate two (2) years from the effective date of its granting unless all necessary permits for construction, alteration, painting, demolition, or removal, as the case may be, have been issued

within such period. However, such period of time may be extended by the original reviewing officer or body, upon application filed at any time before said period has expired. Expiration of any necessary building permit for the project may invalidate the design review approval if such extension period has also expired.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11816 § 2 (part), 1995; prior planning code § 9309)

17.136.120 Design review related to conditional use permit, planned unit development, variance, or subdivision.

A. Whenever design review approval is required for a proposal also requiring one or more other discretionary permits, such as a conditional use permit, planned unit development permit, or variance, the application for design review shall be submitted with the application for said other permit and shall be processed and considered as part of the same proposal. The reviewing officer or body shall, in considering the design review aspects of the proposal, determine whether it conforms to all the applicable design review criteria. Decisions on the design review aspects of a proposal also requiring one or more other discretionary permits, such as a minor conditional use permit or minor variance, shall still be appealable within ten (10) calendar days after the date of decision to the City Planning Commission or City Council to the extent such appeal would otherwise be allowed under Sections 17.136.080 and 17.136.090. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

B. Whenever design review approval is required for a proposal also requiring subdivision approval, the application for design review approval may be submitted with the tentative map or tentative parcel map required by the Oakland Municipal Code, but shall nonetheless be subject to all the separate procedure and criteria pertaining to design review.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: Ord. 11816 § 2 (part), 1995: prior planning code § 9311)

17.136.130 Limitation on resubmission—Small project design review and Special project design review.

Whenever an application for Small project design review or Special project design review has been denied by the Director of City Planning, no Small project design review application or Special project design review application for essentially the same proposal affecting the same property, or any portion thereof, shall be filed within one (1) year after the date of denial; provided, however, that such proposal may be resubmitted as an application for Regular design review.

The limitation of this Section on resubmitting an application for Small project design review or Special project design review shall not apply in instances where the applicant can show, on the face of any subsequent application, changed circumstances sufficient to justify reconsideration of denial of the original application for Small project design review or Special project design review. Applications pursuant to this Section shall be considered by the Director of City Planning. A determination by the Director shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission. In event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are

open for business shall be the last date of appeal. Any such decision by the Planning Commission shall be final.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11816 § 2 (part), 1995: prior planning code § 9312)

Chapter 17.138 DEVELOPMENT AGREEMENT PROCEDURE

Sections:

17.138.010 Title, purposes, and applicability.

17.138.015 Projects eligible and special regulations for projects with development agreements.

17.138.020 Application.

17.138.030 Planning Commission action.

17.138.040 Council action.

17.138.050 Criterion.

17.138.060 Factors for consideration.

17.138.070 Recordation.

17.138.080 Adherence to development agreement, and amendment or cancellation by mutual consent.

17.138.090 Periodic review.

17.138.100 Development agreement related to other special zoning approval or subdivision.

17.138.010 Title, purposes, and applicability.

The provisions of this Chapter shall be known as the Development Agreement Procedure. The purposes of these provisions are to prescribe the procedure for consideration of development agreements and, by encouraging appropriate projects, to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development. This procedure shall apply to all proposals for development agreements.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 9350)

17.138.015 Projects eligible and special regulations for projects with development agreements.

A. Any person having a legal or equitable interest in the real property involved may, upon approval pursuant to the development agreement procedure in this Chapter, enter into a development agreement with the City for any specific development project which involves either:

   1. A total of at least four (4) acres of land area; or

   2. Five hundred thousand (500,000) square feet of floor area; and is a project intended to be developed in stages; or

   3. Involves land sold or leased by the Redevelopment Agency or the successor to the Redevelopment Agency of the City, and is to be carried out by agreement with the Redevelopment Agency or the successor to the Redevelopment Agency.

B. The development agreement shall not be approved unless the project has received, or simultaneously receives, whatever design review, conditional use permit, preliminary Planned Unit Development plan approval, and/or variance it may otherwise require. For the duration of the particular agreement, and unless otherwise provided in the terms thereof, there shall be a contractual guarantee that the project covered by the agreement may be pursued under the applicable procedural criteria, if any, and other zoning regulations, and plans or other documents referred to by any such criteria, as they existed when the agreement was approved and notwithstanding any subsequent changes in said zoning regulations or documents. However, the agreement may also subject the proposal to special conditions to benefit or protect the City for entering into the development agreement. The conditions may include, but are not limited to, supplemental restrictions on kinds of uses, Floor-Area Ratio, or density; special conditions or criteria for required subsequent zoning approvals, if any; and requirements for the reservation, dedication, or improvement of land for public purposes or accessible to the public.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.138.020 Application.

Application for a development agreement shall be made by a person, or the authorized agent of a person, having a legal or equitable interest in the affected property. Application shall be made on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall be accompanied by the fee prescribed in the fee schedule in Chapter 17.150 and by the proposed development agreement and any supporting material which, between them, shall include the following:

A. An identification of the affected property and the proposed parties to the agreement;

B. A description of the development project, indicating the proposed kinds of uses, Floor-Area Ratio or density, and building height and size, and such additional information as may be required to allow the applicable criterion and factors to be applied to the proposal. Such information may include, but is not limited to, site and building plans, elevations, relationships to adjacent properties, and operational data. Where appropriate the description may distinguish between elements of the project which are proposed to be fixed under the agreement and those which may vary;

C. An identification of any subsisting planned unit development permit or other special zoning approval which has already been obtained for the development project;

D. The special conditions, if any, to be imposed pursuant to Section 17.138.015

E. The proposed duration of the agreement and timing of the development project;

F. A program for periodic review under Section 17.138.090

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 9351)

17.138.030 Planning Commission action.

An application for a development agreement shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting an enlarged notice on the premises of the subject property. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property within three hundred (300) feet of the

property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in such records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. If, however, the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures. The Commission shall determine whether the proposal conforms to the criterion set forth in Section 17.138.050, and may recommend approval or disapproval of the application, or recommend its approval subject to changes in the development agreement or conditions of approval, giving consideration to the factors set forth in Section 17.138.060. Should a decision not be rendered within sixty (60) days after the filing, the application shall be deemed approved except when, pursuant to the California Environmental Quality Act, an environmental document is required prior to decision, in which case should a decision not be rendered within sixty (60) days after final action on the environmental document, the application shall be deemed approved. In any case, however, the date by which a decision must be rendered may be extended by agreement between the Director of City Planning or the City Planning Commission and the applicant. The Commission shall, within ten days of its decision, forward its recommendations to the City Council.

(Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9352)

17.138.040 Council action.

After a recommendation has been rendered by the Commission, the City Council shall set the date for consideration of the matter. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal.

The City Clerk shall notify the Secretary of the City Planning Commission of the date set for consideration thereof; and said Secretary shall give notice of the hearing by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. The Council shall review the recommendation of the Commission and shall determine whether the proposal conforms to the criterion set forth in Section 17.138.050, and may approve or disapprove the proposed development agreement, or approve it subject to changes therein or conditions of approval, giving consideration to the factors set forth in Section 17.138.060. If the Council approves the development agreement or approves it subject to changes or conditions, it shall do so by ordinance and the agreement shall be effective upon the effective date of the ordinance. In any case, the decision of the Council shall be final.

(Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9353)

17.138.050 Criterion.

A development agreement may be approved only if it is found that the proposal is consistent with the Oakland General Plan and with any applicable district plan or development control map which has been adopted by the City Council, as said plans or map currently exist.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 9354)

17.138.060 Factors for consideration.

In reviewing an application for a development agreement, the City Planning Commission and the City Council shall give consideration to the status and adequacy of pertinent plans; any uncertainty or issues about the affected area which may suggest the retention of flexibility; the traffic, parking, public service, visual, and other impacts of the proposed development project upon abutting properties and the surrounding area; the provisions included, if any, for reservation, dedication, or improvement of land for public purposes or accessible to the public; the type and magnitude of the project's economic benefits to Oakland, and of its contribution if any toward a meeting of housing needs; and to any other comparable, relevant factor.

(Prior planning code § 9355)

17.138.070 Recordation.

Within ten (10) days after the effective date of the development agreement, the City Clerk shall record with the County Recorder a copy of the agreement. If the agreement is amended, canceled, or revoked pursuant to Section 17.138.080 or 17.138.090, the City Clerk shall record notice of such action with the recorder.

(Prior planning code § 9356)

17.138.080 Adherence to development agreement, and amendment or cancellation by mutual consent.

A subsisting development agreement shall be enforceable by any party thereto. The interests of the applicant may not be transferred or assigned to a new person without the written consent of the city. In any case, the burdens of such agreement shall also bind, and its benefits shall also inure to, all successors in interest. A development agreement may be amended, or canceled in whole or in part, by mutual consent of the parties to the agreement or their successors in interest. Such amendments and cancellations shall be processed in the same manner as an original application and shall be subject to the same procedural requirements.

(Prior planning code § 9357)

17.138.090 Periodic review.

Each development agreement shall be reviewed at least once every twelve (12) months, and the review period shall be specified in the agreement. Application for periodic review shall be made on a form prescribed by the City Planning Department and shall be filed with such department. The application shall be accompanied by the fee prescribed in the city master fee schedule. Failure to file for such review within the time limits specified in the agreement shall render the agreement null and void. The applicant or successor in interest shall be required to demonstrate good faith compliance with the terms of the agreement. If the Director of City Planning finds that such compliance has been deficient, he or she shall forward this finding and his or her recommendation to the City Council, for consideration in accordance with the enforcement procedure in Chapter 17.152.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12237 § 4 (part), 2000: prior planning code § 9358)

17.138.100 Development agreement related to other special zoning approval or subdivision.

Whenever a development agreement is proposed for a project which requires additional planned unit development or other special zoning approval, or subdivision approval, the application for the development agreement may be substituted with the application for said approval, but shall nonetheless be subject to all the separate procedure, and criterion and factors, pertaining to review of development agreements.

(Prior planning code § 9359)

Chapter 17.140 PLANNED UNIT DEVELOPMENT PROCEDURE

Sections:

17.140.010 Title, purpose, and applicability.

17.140.020 Application.

17.140.030 Preliminary Planning Commission action.

17.140.040 Submission of final development plan.

17.140.050 City Engineer's report.

17.140.060 Final Planning Commission action.

17.140.070 Appeal to Council.

17.140.080 Permit criteria.

17.140.090 Mapping.

17.140.100 Limitation on resubmission.

17.140.110 Adherence to approved plan, and modification thereof.

17.140.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Planned Unit Development Procedure. The purpose of these provisions is to prescribe the procedure for the review of Planned Unit Developments and to encourage those which are appropriately designed and located. This procedure shall apply to all proposed developments for which a permit is required by Section 17.142.030. Whenever such a development is subject to the real estate subdivision regulations, this procedure shall be complied with, and, in addition thereto, such regulations.

(Ord. 12872 § 4 (part), 2008; prior planning code § 9400)

17.140.020 Application.

Application for a Planned Unit Development (PUD) permit shall be made by the owner of the affected property or his or her authorized agent, or by another party described in Section 17.142.040, on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall be accompanied by the fee prescribed in the fee schedule in Chapter 17.150, and by the following:

A. A preliminary development plan of the entire development showing streets, driveways, sidewalks and pedestrian ways, and off-street parking and loading areas; location and approximate dimensions of structures; utilization of structures, including activities and the number of living units; estimated population; reservations for public uses, including schools, parks, playgrounds, and other open spaces; major landscaping features; relevant operational data; and drawings and elevations clearly establishing the scale, character, and relationship of buildings, streets, and open spaces. Such development plan shall include maps and information on the surrounding area within one hundred (100) feet of the development. All elements listed in this paragraph shall be

characterized as existing or proposed, and sufficiently detailed to indicate intent and impact. In the case of a development intended to be constructed over a period of more than four (4) years, the design and arrangement of those portions of the project to be constructed more than four (4) years in the future may be shown in generalized, schematic fashion;

B. A tabulation of the land area to be devoted to various uses, a tabulation of gross floor area to be devoted to various uses, and a calculation of the average residential density per net acre and per net residential acre;

C. A stage development demonstrating that the developer intends to commence construction within one (1) year after the approval of the final development plan and will proceed diligently to completion;

D. If it is proposed that the final development plan will be submitted in stages, a schedule for submission thereof.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; prior planning code § 9401)

17.140.030 Preliminary Planning Commission action.

An application for a Planned Unit Development (PUD) permit shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting an enlarged notice on the premises of the subject property. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in such records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. If, however, the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures. While the hearing is open, any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. The Commission shall determine whether the proposal conforms to the permit criteria set forth in Section 17.140.080 and to the Planned Unit Development regulations in Chapter 17.142, and may approve or disapprove the application and the accompanying preliminary development plan or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria and regulations. In so doing, the Commission may, in its discretion, authorize submission of the final development plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule. The determination of the Commission shall become final ten (10) calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.140.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on the matter, in accordance with the above procedures. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9402)

17.140.040 Submission of final development plan.

Within one (1) year after the approval or modified approval of a preliminary development plan, the applicant shall file with the City Planning Department a final plan for the entire development or, when submission in stages has been authorized pursuant to Section 17.140.030, for the first unit of the development. The final plan shall conform in all major respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary development plan plus the following: the location of water, sewerage, and drainage facilities; detailed building and landscaping plans and elevations; the character and location of signs; plans for street improvements; and grading or earth-moving plans. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development. Copies of legal documents required for dedication or reservation of group or common spaces, for the creation of nonprofit homes' association, or for performance bonds, shall also be submitted. If the final plan, meeting the requirements stated in this section, is not submitted within one (1) year after the date of approval or modified approval of the preliminary development plan, whether approved by operation of law or otherwise, the preliminary development plan shall be considered void.

(Ord. 12872 § 4 (part), 2008; Ord. 11828 § 2, 1995: prior planning code § 9403)

17.140.050 City Engineer's report.

Within thirty (30) days after the filing of the final development plan, the City Planning Commission shall forward such development plan and the original application to the City Engineer for review of public improvements, including streets, sewers, and drainage. The Commission shall not act on a final development plan until it has first received a report from the City Engineer or until more than thirty (30) days have elapsed since the plan and application were sent to the City Engineer, whichever is the shorter period.

(Prior planning code § 9404)

17.140.060 Final Planning Commission action.

Upon receipt of the final development plan, the City Planning Commission shall examine such plan and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved preliminary development plan, or, in the case of the design and arrangement of those portions of the plan shown in generalized, schematic fashion, whether it conforms to applicable design review criteria. After receiving a final development plan which includes design and arrangement of portions of the project shown in generalized, schematic fashion on the preliminary development plan, the Commission shall hold a public hearing before taking action. Notice of the hearing shall be given in the same manner as set forth in Section 17.140.030. While the hearing is open, any interested party must enter into the record any issues and/or oral, written, or documentary evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. The Commission may grant or deny a Planned Unit Development permit or require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary to ensure conformity to the applicable criteria and standards. In so doing, the Commission may permit the

applicant to revise the plan and resubmit it as a final development plan within thirty (30) days. If the Commission does not grant such permission, the decision of the Commission shall become final ten (10) calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.140.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on the matter, in accordance with the above procedures. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Prior planning code § 9405)

17.140.070 Appeal to Council.

Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for approval of a preliminary or final development plan, or for modification or amendment of any such plan, an appeal from said decision may be taken to the City Council by the applicant, the permit holder, or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of such appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item, in accordance with the above procedures, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Council shall determine whether the proposal conforms to the applicable criteria and standards, and may approve or disapprove the proposed development or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria and standards. The decision of the City Council shall be made by resolution and shall be final.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9406)

17.140.080 Permit criteria.

A Planned Unit Development permit may be granted only if it is found that the development (including conditions imposed under the authority of Sections 17.142.060 and 17.140.030) conforms to all of the following criteria, as well as to the Planned Unit Development regulations in Chapter 17.142:

A. That the location, design, size, and uses are consistent with the Oakland General Plan and with any other applicable plan, development control map, design guidelines, or ordinance adopted by the City Council or Planning Commission;

B. That the location, design, and size are such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding uses, that the location and design will adequately reduce the impact of the development;

C. That the location, design, size, and uses are such that traffic generated by the development can be accommodated safely and without congestion on major streets and will avoid traversing other local streets;

D. That the location, design, size, and uses are such that the residents or establishments to be accommodated will be adequately served by existing or proposed facilities and services;

E. That the location, design, size, and uses will result in an attractive, healthful, efficient, and stable environment for living, shopping, or working, the beneficial effects of which environment could not otherwise be achieved under the zoning regulations;

F. That the development will be well integrated into its setting, will not require excessive earth moving or destroy desirable natural features, will not be visually obtrusive and will harmonize with surrounding areas and facilities, will not substantially harm major views for surrounding residents, and will provide sufficient buffering in the form of spatial separation, vegetation, topographic features, or other devices.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. 12872 § 4 (part), 2008; prior planning code § 9407)

17.140.090 Mapping.

Whenever a Planned Unit Development (PUD) permit has been granted, and so long as the permit is in effect, the boundary of the Planned Unit Development shall be indicated on the zoning maps of the city.

(Prior planning code § 9408)

17.140.100 Limitation on resubmission.

Whenever an application for a Planned Unit Development permit has been denied, no application for the same area or any portion thereof shall be filed by the same applicant within six (6) months after the date of denial.

(Prior planning code § 9409)

17.140.110 Adherence to approved plan, and modification thereof.

The applicant shall agree in writing to be bound, for himself or herself and his or her successors in interest, by the conditions prescribed for approval of a Planned Unit Development. The approved final plan and stage development schedule shall control the issuance of all building permits and shall restrict the nature, location, and design of all uses. Minor changes in an approved preliminary or final development plan may be approved by the Director of City Planning if such changes are consistent with the purposes and general character of the development plan. Proposed extensions to the one-year time limit imposed by Section 17.140.040 and proposed extensions of revisions of the stage development schedule, upon application filed at any time before said period has expired, shall be referred to the City Planning Commission, and the Commission may approve, modify, or deny such proposals. The decision of the Commission is appealable to the City Council. All other modifications, including extensions or revisions of the stage development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedural requirements.

(Ord. 11828 § 3, 1995: prior planning code § 9410)

Chapter 17.142 MINI-LOT AND PLANNED UNIT DEVELOPMENT REGULATIONS [42]

Sections:

Article I - Title, Purposes and Applicability

Article II - Mini-Lot Developments

Article III - Planned Unit Developments

FOOTNOTE(S):

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Editor's note— Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, changed the title of Chapter 17.142 from "Planned unit development regulations" to "Mini-lot and planned unit development regulations." (Back)

Article I Title, Purposes and Applicability

17.142.002 Title and purposes.

17.142.004 Applicability.

17.142.002 Title and purposes.

The provisions of this Chapter shall be known as the Mini Lot and Planned Unit Development Regulations. The purposes of these regulations are to:

A. Encourage the comprehensive planning of tracts of land;

B. Provide flexibility in the application of certain regulations in a manner consistent with the general purposes of the zoning regulations; and

C. Promote a harmonious variety of uses, the economy of shared services and facilities, compatibility with surrounding areas, and the creation of attractive, healthful, efficient, and stable environments for living, shopping, or working.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.142.004 Applicability.

These regulations shall apply to all:

A. Mini-Lot Developments located on a single tract of land of less than sixty thousand (60,000) square feet, and containing lots which do not meet the minimum size or other requirements applying to individual lots in the zone where it is located; and

B. Planned Unit Developments (PUDs) located on a single tract of land of sixty thousand (60,000) square feet or more, or on two (2) or more tracts of land equaling sixty thousand (60,000) square feet or more in total which may be separated only by a street or other right-of-way.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Article II Mini-Lot Developments

17.142.010 Definition of Mini-Lot Development.

17.142.012 Basic provisions for Mini-Lot Developments.

17.142.014 Zones in which requirements may be waived for a Mini-Lot Development.

17.142.016 Maximum size for which requirements may be waived for a Mini-Lot Development.

17.142.010 Definition of Mini-Lot Development.

A Mini-Lot Development is a comprehensively designed development containing lots that do not meet the minimum size or other requirements applying to individual lots of less than sixty thousand (60,000) square feet in the zone where it is located.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.142.012 Basic provisions for Mini-Lot Developments.

Subject to the provisions of this article, the maximum height and minimum yard, lot area, width, and frontage requirements otherwise applying to individual lots may be waived or modified within a Mini-Lot Development, and floor area, parking, and other facilities may be located within said development without reference to lot lines, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination:

1. That there is adequate provision for maintenance of the open space and other facilities within the development; and
2. That except as specified below, the total development meets all the requirements that would apply to it if it were a single lot.
    a. For the RM-2 Zone in the West Oakland District only (defined for the purposes of this Chapter as all areas between Interstate 980 to the east, Interstate 880 to the south and west, and Interstate 580 to the north), the minimum setback requirements for the total development shall be the same as those in Table 17.17.04 for a single lot less than four thousand (4,000) square feet in size. Also for the RM-2 Zone in the West Oakland District only, the minimum setback requirements for the total development may be further reduced to be the same as those in Table 17.17.04 for a single lot less than three thousand (3,000) square feet in size upon the following additional determination:
        i. Excluding the subject parcel, the prevalent size of existing lots in the surrounding block is three thousand (3,000) square feet or less, and the

prevalent frontage width along the same block face is thirty-five (35) feet or less.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.142.014 Zones in which requirements may be waived for a Mini-Lot Development.

A conditional use permit pursuant to 17.142.012 may only be granted in the S-1 or S-2 Zone, or in any Residential or Commercial Zone other than RH or RD Zones.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.142.016 Maximum size for which requirements may be waived for a Mini-Lot Development.

Maximum Size for Which Requirements May Be Waived. A conditional use permit pursuant to Section 17.142.012 of this Chapter may be granted only if the total land area of the Mini-Lot Development is less than sixty thousand (60,000) square feet.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Article III Planned Unit Developments

17.142.020 Definition of Planned Unit Development.

17.142.030 Developments for which Planned Unit Development permit approval is required or requested.

17.142.040 Ownership and division of land.

17.142.050 Professional design.

17.142.060 Dedication of public facilities and maintenance of open space.

17.142.070 Performance bonds.

17.142.080 Zones in which bonuses may be granted.

17.142.090 Minimum size for which bonuses may be granted.

17.142.100 Bonuses.

17.142.110 Development standards.

17.142.020 Definition of Planned Unit Development.

A "Planned Unit Development" (PUD) is a large, integrated development adhering to a comprehensive plan and located on a single tract of land of sixty thousand (60,000) square feet or more, or on two (2) or more tracts of land equaling sixty thousand (60,000) square feet or more in total which may be separated only by a street or other right-of-way. In developments that are approved pursuant to the Planned Unit Development regulations in this Chapter, certain

uses may be permitted in addition to those otherwise allowed in the underlying zone, certain of the other regulations applying in said zone may be waived or modified, and the normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; prior planning code § 7801)

17.142.030 Developments for which Planned Unit Development permit approval is required or requested.

A. The following developments are permitted only upon the granting of a Planned Unit Development permit pursuant to the Planned Unit Development procedure in Chapter 17.140.

   1. Any Planned Unit Development incorporating any of the bonuses set forth in Section 17.142.100.

   2. Any integrated development which is primarily designed for or occupied by Commercial Activities, which is located in any Commercial Zone, and which is developed under unified control, in accordance with a comprehensive plan, on a single tract with sixty thousand (60,000) square feet or more of land area, or on two (2) or more tracts which total such area and which are separated only by a street or other right-of-way.

B. Unless required by the Planning Director, other large, integrated developments involving the same minimum land area thresholds of a Planned Unit Development, as defined in Section 17.142.020, are permitted without such a permit. However, an applicant for such a development may request a Planned Unit Development permit pursuant to the Planned Unit Development procedure in Chapter 17.140, but shall be subject to all regulations generally applying in the zone in which they are located.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; prior planning code § 7802)

Editor's note—

Ord. No. 13172, § 3(Exh. A), adopted July 2, 2013, changed the title of Section 17.142.030 from "Developments for which approval is required" to "Developments for which planned unit development permit approval is required or requested." The historical notation has been preserved for reference purposes.

17.142.040 Ownership and division of land.

If any of the bonuses set forth in Section 17.142.100 are proposed for a development, the tract or tracts of land included in such development must be in one (1) ownership or control or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase; any governmental agency, including the Redevelopment Successor Agency of the City; or a redeveloper under contract with the Redevelopment Successor Agency shall be deemed the owner of such land for the purposes of this Section. Unless otherwise provided as a condition for approval of a Planned Unit Development (PUD) permit, the permittee

may divide and transfer units of any development for which a permit is required by Section 17.142.030. The transferee shall complete each such unit, and use and maintain it, in strict conformance with the approved permit and development plan.

(Ord. 12872 § 4 (part), 2008; prior planning code § 7803)

17.142.050 Professional design.

If any of the bonuses set forth in Section 17.142.100 are proposed for a Planned Unit Development, the application for a Planned Unit Development (PUD) permit pursuant to said Section shall utilize the following professionals in the design process for the development:

A. An architect licensed by the State of California; and

B. A landscape architect licensed by the State of California, or an urban planner holding or capable of holding membership in the American Institute of Certified Planners.

(Ord. 12872 § 4 (part), 2008; prior planning code § 7804)

17.142.060 Dedication of public facilities and maintenance of open space.

The City Planning Commission or, on appeal, the City Council may, as a condition of approval of any development for which a permit is required by Section 17.142.030, require that suitable areas for schools, parks, or playgrounds be set aside, improved, and dedicated for public use, or be permanently reserved for the owners, residents, employees, or patrons of the development. Whenever group or common open space is provided, the Commission or the Council, as the case may be, may require that an association of owners or tenants be created for the purpose of maintaining such open space. Such an association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain said open space for the purposes intended. The period of existence of such association shall be not less than twenty (20) years, and it shall continue thereafter until a majority vote of the members shall terminate it.

(Ord. 12872 § 4 (part), 2008; prior planning code § 7805)

17.142.070 Performance bonds.

The City Planning Commission or, on appeal, the City Council may, as a condition of approval of any development for which a permit is required by Section 17.142.030, require a cash bond or surety bond for the completion of all or specified parts of the development deemed to be essential to the achievement of the purposes set forth in Section 17.142.010. The bond shall be in a form approved by the City Attorney, in a sum of one hundred percent (100%) of the estimated cost of the work, and conditioned upon the faithful performance of the work specified within the time specified.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; prior planning code § 7806)

17.142.080 Zones in which bonuses may be granted.

The bonuses set forth in Section 17.142.100 may, upon approval pursuant thereto and except as otherwise specified therein, be permitted for a Planned Unit Development in any Residential or Commercial Zone, or in the S-1, S-2, S-15, or D-CO-1 Zones.

(Ord. 12872 § 4 (part), 2008; Ord. 11892 § 19, 1996: prior planning code § 7810)

17.142.090 Minimum size for which bonuses may be granted.

The minimum total land area of any Planned Unit Development incorporating any of the bonuses set forth in Section 17.142.100 shall be four (4) acres in the RH and RD-1 Zones, and sixty thousand (60,000) square feet in all other zones except the CC-1 Zone. In the CC-1 Zone, the minimum total land area shall be four (4) acres for any Planned Unit Development incorporating any of the bonuses set forth in Subsection 17.142.100.E, and sixty thousand (60,000) square feet for any other Planned Unit Development incorporating any of the bonuses set forth in Section 17.142.100.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12272 § 4 (part), 2000: prior planning code § 7811)

17.142.100 Bonuses.

For Planned Unit Developments qualifying under Sections 17.142.080 and 17.142.090, the following exceptions to otherwise applicable regulations may be permitted upon the granting of a Planned Unit Development permit pursuant to the Planned Unit Development procedure in Chapter 17.140:

A. Additional Permitted Activities Where Increase in Overall Density or Floor-Area Ratio (FAR) Is Proposed. Except in the RH and RD-1 Zones, the following activities, as described in the use classifications in Chapter 17.10, may be permitted in a Planned Unit Development incorporating an increase in overall density or Floor-Area Ratio pursuant to Subsection E. of this Section, in addition to the activities generally permitted in the zone where the development is located:

1. Residential Activities:

   Permanent

2. Civic Activities:

   Limited Child-Care

   Community Education

3. Commercial Activities, provided that such activities shall not occupy in the aggregate more than four percent (4%) of the total floor area in such development, provided that the maximum floor area devoted to such activities by any single establishment shall be three thousand (3,000) square feet, and further provided that such activities shall not be permitted at all in any such development which has an overall density in Residential Facilities of less than forty (40) living units per net residential acre (excluding streets and other rights-of-way):

   General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Fast-Food Restaurant

Convenience Market

Alcoholic Beverage Sales

Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)

Medical Service

B. Further Additional Permitted Activities Where No Increase in Overall Density or Floor-Area Ratio Is Proposed. Except in the RH and RD-1 Zones, the following activities, as described in the use classifications, may be permitted in a Planned Unit Development for which no increase in overall density or Floor-Area Ratio is proposed pursuant to Subsection E. of this Section, in addition to the activities listed in Subsection A. of this Section and in addition to the activities generally permitted in the zone in which the development is located. The special limitations prescribed in Subsection A.3. of this Section with respect to location and amount of floor area devoted to Commercial Activities shall not apply in such a development.

1. Residential Activities:

   Semi-Transient

2. Civic Activities:

   Health Care (Nursing Home)

   Recreational Assembly

   Nonassembly Cultural

   Administrative

   Utility and Vehicular

3. Commercial Activities:

   Mechanical or Electronic Games

   General Retail Sales

   Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)

   Consultative and Financial Service

   Consumer Cleaning and Repair Service

   Consumer Dry Cleaning Plant

Group Assembly

Personal Instruction and Improvement Services

Administrative

Business, Communication, and Media Service

Broadcasting and Recording Service

Research Service

General Wholesale Sales

Automobile and Other Light Vehicle Gas Station and Servicing

Automotive Fee Parking

Animal Care

Animal Boarding

4. Industrial Activities:

Custom Manufacturing

C. Additional Permitted Facilities in RH-4 and RD-1 Zones. In the RH-4 and RD-1 Zones, the following facilities, as described in the use classifications, may be permitted in addition to the facilities otherwise permitted in said zone, provided that at least fifty percent (50%) of the dwelling units in the total development shall be One-Family Dwellings:

1. Residential Facilities:

One-Family Dwelling with Secondary Unit

Two-Family Dwelling

Multifamily Dwelling

D. Additional Permitted Facilities in Other Zones. Except in the RH, and RD-1 Zones, the following facilities, as described in the use classifications, may be permitted in addition to the facilities otherwise permitted in the zone in which the development is located:

1. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit

Two-Family Dwelling

Multifamily Dwelling

Rooming House

2. Nonresidential Facilities:

Open

Drive-In

3. Signs:

Residential

Business

E. Increase in Overall Density or Floor-Area Ratio.

1. Except in the RH, and RD-1 Zones and except in a development incorporating the bonuses specified in Subsection B. of this Section, the maximum overall number of living units in Residential Facilities and the maximum overall Floor-Area Ratio, if any, otherwise permitted or conditionally permitted in the zone in which the development is located may be increased by up to thirty-three percent (33%) if the development contains a combination of two (2) or more of the following dwelling types and if not more than two-thirds (2/3) of the total number of living units are included in any one of such types:

a. Detached buildings each containing only one living unit;

b. Town house or similar One-Family semi-detached or attached buildings each containing only one (1) living unit;

c. Buildings each containing two (2) living units;

d. Buildings each containing more than two (2) living units.

2. Except in the RH, and RD-1 Zones and except in a development incorporating the bonuses specified in Subsection B. of this Section, the maximum overall number of living units in Residential Facilities and the maximum overall Floor-Area Ratio, if any, otherwise permitted or conditionally permitted in the zone in which the development is located may be increased by up to twenty-five percent (25%) in a development other than one described in Subsection E.1. of this Section.

F. Distribution of Facilities without Reference to Lot or Block Line. The overall number of living units and amount of floor area, off-street parking and loading facilities, usable open space, and landscaping and screening may be located within the development without reference to lot lines or blocks, except as otherwise provided in Subsection 17.142.110.I and except that required parking spaces serving Residential Activities shall be located within two hundred (200) feet of the building containing the living units served.

G. Waiver or Reduction of Yard and Other Dimensional Requirements. Except as otherwise provided in Subsection 17.142.110.E, the minimum lot area, width, and frontage; height; and yard requirements otherwise applying may be waived or modified for the purpose of promoting an integrated site plan.

H. Limitations on Signs. Except in the RH and RD-1 Zones and except in a development incorporating an increase in density or Floor-Area Ratio pursuant to Subsection E. of this Section, Signs may be developed subject to the limitations prescribed therefor in the CC-1 Zone rather than those in the zone in which the development is located.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12872 § 4 (part), 2008; Ord. 12272 § 4 (part), 2000; prior planning code § 7812)

17.142.110 Development standards.

The following regulations shall apply to all developments for which a permit is required by Section 17.142.030:

A. Density and Floor-Area Ratio (FAR) Calculation. The maximum overall number of living units in Residential Facilities and the maximum overall Floor-Area Ratio, if any, shall be based on the land area within the development, excluding the following:

1. Publicly dedicated streets, freeways, alleys, and paths;

2. When computing density for Residential Facilities in the RH, RD, or RM Zones, the following:

a. Land, other than public housing sites, which is publicly owned or reserved for public ownership,

b. Land which is specifically devoted to or intended for Nonresidential Facilities.

B. Density in the RH, and RD-1 Zones. In the RH-1 Zone, the maximum number of dwelling units shall be one (1) unit for each forty-three thousand five hundred sixty (43,560) square feet of land area as described in Subsection A. of this Section. In the RH-2 Zones, the maximum number of dwelling units shall be one (1) unit for each twenty-five thousand (25,000) square feet of land area as described in Subsection A. of this Section. In the RH-3 Zone, the maximum number of dwelling units shall be one (1) unit for each twelve thousand (12,000) square feet of land area as described in Subsection A. of this Section. In the RH-4 Zone, the maximum number of dwelling units shall be one (1) unit for each eight thousand (8,000) square feet of land area as described in Subsection A. of this Section. In the RD-1 Zone, the maximum number of dwelling units shall be one (1) unit for each five thousand (5,000) square feet of land area as described in Subsection A. of this Section.

C. Height in the RH-4 and RD-1 Zones. In the RH-4 and RD-1 Zones, no building shall exceed fifty (50) feet in height, except as would otherwise be allowed by Subsection 17.108.020.A and except for the same projections as are allowed by Section 17.108.030

D. Performance Standards. Any Commercial or Industrial Activities in the development shall be subject to the applicable provisions of the performance standards in Chapter 17.120.

E. Yards and Courts. Yards and courts shall be provided of such depth and width as to provide the same minimum separation between walls of Residential Facilities or between such facilities and the walls of other facilities, regardless of whether such walls are on the same or on separate lots, as is generally required in the RU-2 Zone for courts between such walls when located on the same lot.

F. Usable Open Space. In the RH-1, RH-2 and RH-3 Zones, two hundred (200) square feet of group usable open space per dwelling unit and three hundred (300) square feet of private usable open space per dwelling unit shall be provided for Residential Facilities; and in the RH-4 and RD-1 Zones, two hundred (200) square feet of group usable open space per dwelling unit and one hundred (100) square feet of private

usable open space per dwelling unit shall be provided for Residential Facilities. In any other zone, in any development incorporating an increase in overall density or Floor-Area Ratio pursuant to Subsection 17.142.100.E, group usable open space shall be provided for Residential Facilities in the minimum amount of two hundred (200) square feet per dwelling unit. Except as otherwise provided in Subsection 17.142.100.F, all required usable open space shall conform to the standards for required usable open space in Chapter 17.126, and private usable open space may be substituted for required group space in the ratio prescribed in said chapter.

G. Undergrounding of Utilities. In any development which is primarily designed for or occupied by Residential Activities, all electric and telephone facilities; fire alarm conduits; streetlight wiring; and other wiring, conduits, and similar facilities shall be placed underground by the developer. Electric and telephone facilities shall be installed in accordance with standard specifications of the serving utilities. Street lighting and fire alarm facilities shall be installed in accordance with standard specifications of the Electrical Department.

H. Other Regulations. Except as otherwise provided in Section 17.142.100 and in this Section, and except as more restrictive regulations may be prescribed pursuant to Section 17.142.060 or otherwise as a condition of approval of a Planned Unit Development permit pursuant to Section 17.142.030, the development shall be subject to the regulations generally applying in the zone in which it is located and the provisions of Section 17.108.080.

I. Developments Divided by Boundaries. Any development which is divided by a boundary between zones shall be subject as if it were a single lot to the provisions of Subsections B.2., 3., and 4. of Section 17.154.060 with respect to calculation of required parking, loading, and usable open space; calculation of maximum number of living units or Floor-Area Ratio; and distribution of the resulting number of living units or amount of floor area.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12272 § 4 (part), 2000; prior planning code § 7813)

Chapter 17.144 REZONING AND LAW CHANGE PROCEDURE

Sections:

17.144.010 Title, purpose, and applicability.

17.144.020 No Council action without Planning Commission recommendation.

17.144.030 Initiation.

17.144.040 Private party application.

17.144.050 Review by Landmarks Board in certain cases.

17.144.055 Review by Parks and Recreation Advisory Commission in certain cases.

17.144.060 Planning Commission action on private party application.

17.144.070 Appeal to Council by private party.

17.144.080 Planning Commission action on Commission or Landmarks Board proposal.

17.144.090 Council action.

17.144.100 Limitation on resubmission.

17.144.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Rezoning and Law Change Procedure. The purpose of these provisions is to prescribe the procedure by which changes may be made in the text of the zoning regulations and in the application thereof to specific properties. This procedure shall apply to all proposals to rezone property, to change the text of the zoning regulations, or to establish, amend, or delete any development control map or designated landmark or landmark site.

(Prior planning code § 9500)

17.144.020 No Council action without Planning Commission recommendation.

The City Council shall not rezone any property, change the text of any provision of the zoning regulations, or establish, amend, or delete any development control map or designated landmark or landmark site until after it has received, pursuant to this procedure, a recommendation and/or findings from the City Planning Commission.

(Prior planning code § 9501)

17.144.030 Initiation.

A. Private Party Initiation. The owner of any property, or his or her authorized agent, may make application to the City Planning Commission to rezone such property, to amend or delete any development control map applicable thereto, or to establish, amend, or delete a designated landmark or landmark site applicable thereto.

B. Commission Initiation. The City Planning Commission may, and upon request of the City Council shall, initiate action to rezone any property, to change the text of the zoning regulations, or to establish, amend, or delete any development control map or designated landmark or landmark site. Such initiation shall be for the purpose of reviewing the merits of the proposal and shall not imply advocacy by the Commission for the rezoning or other change.

C. Landmarks Board Initiation. The Landmarks Preservation Advisory Board may initiate action to rezone any property to or from the S-7 Zone or to establish, amend, or delete any designated landmark or landmark site. Such initiation shall be for the purpose of reviewing the merits of the proposal and shall not imply advocacy by the Board for the rezoning or other change.

D. Parks and Recreation Advisory Commission (PRAC) Initiation. The PRAC may initiate action to rezone property to or from the OS Zone or to establish, amend, or delete the park category designation of any site. Such initiation shall be for the purpose of reviewing the merits of the proposal and shall not imply advocacy by the PRAC for the rezoning or other change.

(Ord. 12078 § 5 (part), 1998; prior planning code § 9502)

17.144.040 Private party application.

A private party application shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall be accompanied by a description of the property or such other information as may be required by the City Planning Commission, and by the fee prescribed in the fee schedule in Chapter 17.150.

(Prior planning code § 9503)

17.144.050 Review by Landmarks Board in certain cases.

Whenever an application or proposal, other than one initiated by the Landmarks Preservation Advisory Board, is to rezone property to or from the S-7 Zone or to establish, amend, or delete a designated landmark or landmark site, the City Planning Department shall promptly refer the application or proposal to said Board for its recommendations. The City Planning Commission shall not act on the application or proposal until it has first received a report from the Board or until more than thirty (30) days have elapsed since the proposal was sent to the Board, whichever is sooner. However, the thirty (30) day period may be extended by agreement between the Commission or private party applicant, as the case may be, and the Board.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 9504)

17.144.055 Review by Parks and Recreation Advisory Commission in certain cases.

Whenever an application or proposal, other than one initiated by the Parks and Recreation Advisory Commission (PRAC), is made to rezone property to or from the OS Zone or to establish, amend, or delete a park category designation, the City Planning Department shall promptly refer the application or proposal to the PRAC for its recommendations. The City Planning Commission shall not act on the proposal until it has heard a report from the PRAC or

until more than thirty (30) days have elapsed since the proposal was sent to the PRAC, whichever is sooner. However, the thirty (30) day period may be extended by agreement between the City Planning Commission or private party applicant, as the case may be, and the PRAC.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12078 § 6, 1998)

17.144.060 Planning Commission action on private party application.

In the case of private party initiation, the City Planning Commission shall hold a public hearing on the application within sixty (60) days after the date of application. Notice of the hearing shall be given by posting an enlarged notice on the premises of the subject property. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in such records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date for the hearing. If, however, the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures. Within sixty (60) days following Commission action on any environmental document which may be required pursuant to the California Environmental Quality Act in connection with the proposal, the Commission shall make a decision on the application; provided that the Commission may, with the consent of the applicant, defer action until necessary studies or plans shall have been completed for the area. The Commission shall consider whether the existing zone or regulations are inadequate or otherwise contrary to the public interest, and may approve, modify, or disapprove the application. In case of approval or modified approval, the Commission shall forward its recommendation to the City Council for appropriate action. In case of denial of a private party application, the decision of the Commission shall become final ten (10) calendar days after the date of the decision unless appealed to the City Council in accordance with Section 17.144.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

(Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9505)

17.144.070 Appeal to Council by private party.

Within ten (10) calendar days after the date of an adverse decision by the City Planning Commission on a private party application, an appeal from said decision may be taken to the City Council by the applicant. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed the Commission erred in its decision. The appeal shall be considered in accordance with Section 17.144.090.

(Ord. 12872 § 4 (part), 2008; Prior planning code § 9506)

17.144.080 Planning Commission action on Commission or Landmarks Board proposal.

In the case of initiation by the City Planning Commission or the Landmarks Preservation Advisory Board, the Commission shall, within a reasonable period of time, hold a public hearing on the proposal. Notice of the hearing shall be given in the same manner as set forth in Section 17.144.060. In addition, notice of the hearing shall be mailed or delivered not less than seventeen (17) days prior to the date set for the hearing to the owners of all real property included in the proposal as shown on the last available equalized assessment roll; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. If, however, the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures. When the proposal involves changing the text of the zoning regulations, notice of the hearing shall be given in the official newspaper of the city at least seventeen (17) days prior to the date set for the hearing. Within sixty (60) days following Commission action on any environmental document which may be required pursuant to the California Environmental Quality Act in connection with the proposal, the Commission shall make a decision on the proposal; provided that the Commission may defer action until completion of such studies or plans as may be necessary to determine the advisability of the proposal. The Commission shall consider whether the existing zone or regulations are inadequate or otherwise contrary to the public interest, and may approve, modify, or disapprove the proposal. The Commission shall, in every case, make a recommendation to the City Council for appropriate action.

(Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9507)

17.144.090 Council action.

Upon receipt of an appeal by a private party, or upon receipt of a recommendation from the City Planning Commission, the City Council shall set the date for consideration of the matter. After setting the hearing date, the Council, prior to hearing the appeal or recommendation, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available scheduled meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal. In the case of receipt of a recommendation from the City Planning Commission, the City Clerk shall notify the Secretary of the City Planning Commission of the date set for consideration thereof; and said Secretary shall give notice of the hearing by mail or delivery to all parties who have commented on the matter and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing.

In the case of an appeal by a private party, the City Clerk shall notify the Secretary of the City Planning Commission of the receipt of the appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. Upon an appeal by a private party, or upon the receipt of a recommendation from the City Planning Commission, the Council may approve,

modify, or reverse the decision or may approve, modify, or disapprove the Commission's recommendations, as the case may be. The decision of the City Council shall be made by resolution and shall be final.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9508)

17.144.100 Limitation on resubmission.

Whenever a private party application has been denied by the City Council, no such application for the same proposal affecting the same property, or any portion thereof, shall be filed within one (1) year after the date of denial.

(Prior planning code § 9509)

Chapter 17.148 VARIANCE PROCEDURE

Sections:

17.148.010 Title, purpose, and applicability.

17.148.020 Definition of Major and Minor Variances.

17.148.030 Application.

17.148.040 Procedure for consideration.

17.148.050 Findings required.

17.148.060 Appeal to Planning Commission—Minor Variances.

17.148.070 Appeal to Council—Major Variances.

17.148.080 Adherence to approved plans.

17.148.100 Variance related to Conditional Use Permit, Regular Design Review, Planned Unit Development, or subdivision.

17.148.110 Limitation on resubmission.

17.148.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Variance Procedure. The purpose of these provisions is to prescribe the procedure for the relaxation of any substantive provision of the zoning regulations, under specified conditions, so that the public welfare is secured and substantial justice done most nearly in accord with the intent and purposes of the zoning regulations. This procedure shall apply to all proposals to vary the strict requirements of the zoning regulations.

(Prior planning code § 9600)

17.148.020 Definition of Major and Minor Variances.

A. **Major Variance.** A "Major Variance" is a variance which involves any of the following provisions:

1. Allowable activity types or facility types;
2. Maximum number of living units;
3. Minimum lot area, except in the situation mentioned in Section 17.106.010B;
4. Maximum Floor-Area Ratio (FAR), except for One-Family Dwellings, One-Family Dwellings with Secondary Unit, and Two-Family Dwellings;
5. Maximum size of Commercial or Industrial establishments;
6. Restriction on over-concentration of Residential Care and Emergency Shelter Residential Activities as set forth in Subsection 17.103.010.B.

B. **Minor Variance.** A "Minor Variance" is a variance which does not involve any of the provisions listed in Subsection A. of this Section.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12237 § 4 (part), 2000: Ord. 12138 § 4 (part), 1999; prior planning code § 9601)

17.148.030 Application.

In all zones, application for a variance shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall be accompanied by such information, including but not limited to, site and building plans, drawings and elevations, and operational data, as may be required to permit the review of the proposal in the context of the required findings, and by the fee prescribed in the fee schedule in Chapter 17.150.

(Ord. 12376 § 3 (part), 2001: prior planning code § 9602)

17.148.040 Procedure for consideration.

A. **Major Variances.**

1. In All Zones. An application for a major variance shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting an enlarged notice on the premises of the subject property involved in the application. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the City within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. While the hearing is open, any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. The Commission shall determine whether the conditions required in Section 17.148.050 are present, and may grant or deny an application for a variance or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to promote the purposes of the zoning regulations. The decision of the Commission shall become final ten (10) calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.148.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on the matter, in accordance with the above procedures. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

2. Alcoholic Beverage Sales Commercial Activities. In addition to following the provisions of Subsection A.1. of this Section, the City Planning Commission shall also determine whether the proposal conforms to the criteria for findings of "Public Convenience and Necessity" set forth in Subsection 17.103.030.B.3.

B. **Minor Variances.**

1. In All Zones. An application for a minor variance shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application

to the City Planning Commission rather than acting on it himself or herself. In this case, the application shall still be considered a minor permit, but shall be processed according to the procedure in Subsection A. of this Section. In these instances, any other minor permits associated with the application shall be considered concurrently by the Planning Commission, pursuant to Section 17.130.090. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting an enlarged notice on the premises of the subject property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the City within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director. Any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence: (a) to the Director prior to the close of the written public comment period for his or her consideration, or (b) to the Commission while the hearing is open for its consideration, whichever is applicable; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. The Director shall determine whether the conditions required in Section 17.148.050 are present, and may grant or deny the application for a variance or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgment necessary to promote the purposes of the zoning regulations. The decision of the Director of City Planning shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.148.060. In those cases which are referred to the Commission by the Director, the decision of the Commission shall become final ten (10) days after the date of decision unless appealed to the City Council in accordance with Section 17.148.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented (a) to the Director prior to the close of the written public comment period, or (b) to the Commission prior to the close of the Commission's public hearing on the matter, whichever is applicable, in accordance with the above procedures. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

C. **Alternative Notification Procedures.** If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set forth in Subsections A. and B. of this Section.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: Ord. 12237 § 4 (part), 2000; Ord. 11831 § 6, 1995; prior planning code § 9603)

17.148.050 Findings required.

A. With the exception of variances for Adult Entertainment Activities or Sign Facilities, a variance may be granted only upon determination that all of the following conditions are present:

1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or, as an

alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.

2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.

3. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.

4. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.

5. That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050

6. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

7. For proposals involving one (1) or two (2) residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or maximum floor area ratio, the proposal also conforms with at least one of the following additional criteria:

   a. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or

   b. Over sixty percent (60%) of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.

B. A variance for Adult Entertainment Activities shall be granted upon a determination that all of the following conditions are present, notwithstanding any conflicting requirements contained elsewhere in the zoning regulations:

1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstance or conditions of design;

2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property;
3. That the variance will not adversely affect the use of churches, temples or synagogues; public, parochial or private elementary, junior high or high schools; public parks and recreation centers; public or parochial playgrounds; residences; child care facilities; elderly residential care facilities; hospitals; medical clinics; colleges; or libraries, all within a five hundred (500) foot radius by engendering sounds, activities, visual depictions or advertisements that create an exterior atmosphere which unreasonably interferes with the operations of such surrounding uses;
4. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.

C. A variance for Sign Facilities shall be granted upon a determination that all of the following conditions are present, notwithstanding any conflicting requirements contained elsewhere in the zoning regulations:

1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstance or conditions of design;
2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; and
3. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: prior planning code § 9604)

17.148.060 Appeal to Planning Commission—Minor Variances.

Within ten (10) calendar days after the date of a decision by the Director of City Planning on an application for a minor variance, an appeal from said decision may be taken to the City Planning Commission by the applicant or any other interested party. In the case of appeals involving one- or two-unit Residential Facilities, the appeal shall be considered by the Commission's Residential Appeals Committee. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Director of City Planning prior to the close of the written public comment period on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of such appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof. Not less than seventeen (17) days prior to the date of the Commission's or Committee's consideration of the appeal, the

Secretary shall give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented to the Director of City Planning prior to the close of the written public comment period for the underlying decision being appealed, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the conditions required in Section 17.148.050 are present, and may grant or deny an application for a variance or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to carry out the purposes of the zoning regulations. The decision of the Commission or, if applicable, the Committee shall be final.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12376 § 3 (part), 2001: Ord. 12237 § 4 (part), 2000; prior planning code § 9605)

17.148.070 Appeal to Council—Major Variances.

A. With the exceptions of appeals for Adult Entertainment Activities or for Signs, appeals to the City Council shall be governed by the following:

Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for a major variance, an appeal from said decision may be taken to the City Council by the applicant, the holder of the variance, or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Commission and shall be filed with the City Clerk, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of such appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal.

The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and

individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item, in accordance with the above procedures, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Council shall determine whether the conditions required by Section 17.148.050 are present, and may grant or deny an application for a variance or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to carry out the purposes of the zoning regulations. The decision of the City Council shall be made by resolution and shall be final.

B. Appeals to the City Council relating to Adult Entertainment Activities or for Signs shall be governed by the following:

Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for a major variance, an appeal from said decision may be taken to the City Council by the applicant, the holder of the variance, or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of the appeal, the Council shall set the date for consideration thereof. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, given written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item, in accordance with the above procedures, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Council shall determine whether the conditions required by Section 17.148.050 are present, and shall grant an application for variance if it determines that all the said criteria are present or require such changes in the proposed use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal and must decide the appeal within sixty (60) days of the appeal being filed.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9606)

17.148.080 Adherence to approved plans.

A variance shall be subject to the plans and other specified conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the permit shall terminate two (2) years from the effective date of its granting unless, within such period, all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a variance not involving construction or alteration. However, such period of time may be extended by the original reviewing officer or body, upon application filed at any time before said period has expired. Expiration of any necessary building permit for the project may invalidate the variance approval if said extension period has also expired.

(Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9607)

17.148.100 Variance related to Conditional Use Permit, Regular Design Review, Planned Unit Development, or subdivision.

Whenever a variance is required for a proposal also requiring a conditional use permit, Regular design review, or a Planned Unit Development permit, application for the variance shall be included in the application for said conditional use permit, Regular design review, or Planned Unit Development permit, and shall be processed and considered as part of same. Whenever a variance is proposed within a proposed subdivision, the application for the variance may be submitted with the tentative map or tentative parcel map required by the Oakland Municipal Code, and may be processed and considered therewith. In either case, however, the reviewing officer or body shall, in considering such a variance, determine whether the conditions required in Section 17.148.050 are present.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12776 § 3, Exh. A (part), 2006: prior planning code § 9609)

17.148.110 Limitation on resubmission.

Whenever an application for a major variance has been denied by the City Council or denied by the Planning Commission and the applicant fails to file a timely appeal with the City Council, no such application for essentially the same proposal affecting the same property, or any portion thereof, shall be filed within one (1) year after the date of denial. This Section shall not apply in instances where the applicant can show, on the face of any subsequent application, changed circumstances sufficient to justify a rehearing. Applications for hearing pursuant to this Section shall be considered by the Director of City Planning. A decision by the Director shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission. In event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Any such decision by the City Planning Commission shall be final.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 9610)

Chapter 17.150 FEE SCHEDULE

Sections:

17.150.010 Title, purpose, and applicability.

17.150.020 Master fee schedule.

17.150.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Fee Schedule. The purpose of these provisions is to prescribe the fees for the filing of applications for, or making appeals under, the procedures of the zoning regulations. This fee schedule shall apply to all such filings.

(Prior planning code § 9800)

17.150.020 Master fee schedule.

Fees, and regulations pertaining to fees, for the filing of applications and appeals shall be in accordance with the city master fee schedule.

(Prior planning code § 9804)

Chapter 17.152 ENFORCEMENT

Sections:

17.152.010 Title, purpose, and applicability.

17.152.020 Official action.

17.152.030 Violations and penalties.

17.152.040 Enforcement.

17.152.050 Inspection and right of entry.

17.152.060 General revocation procedures.

17.152.070 Filing and commencement of revocation complaints.

17.152.080 Investigation of revocation complaints.

17.152.090 Administrative record.

17.152.100 Notice.

17.152.110 Administrative Hearing Officer.

17.152.120 Revocation hearing.

17.152.130 Hearing Officer's decision.

17.152.140 Revocation penalties.

17.152.150 Appeal to Planning Commission.

17.152.160 Procedure on appeal to City Planning Commission.

17.152.170 Appeal to the City Council.

17.152.180 Procedure on appeal to City Council.

17.152.190 Public nuisances generally.

17.152.200 Liens, penalties and expenses of abatement.

17.152.210 Fee schedule.

17.152.220 Web site notice.

17.152.230 Extension of time.

17.152.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Enforcement Regulations. The purpose of these regulations is to ensure compliance with the zoning regulations. These provisions shall apply to the enforcement of the zoning regulations, but shall not be deemed exclusive.

(Prior planning code § 9900)

17.152.020 Official action.

All officials, departments, and employees of the city vested with the authority to issue permits, certificates, or licenses shall adhere to, and require conformance with, the zoning regulations.

(Prior planning code § 9901)

17.152.030 Violations and penalties.

A. Infractions. Any person who violates or causes or permits another person to violate any provision of the zoning regulations is guilty of an infraction unless otherwise provided.

B. Separate Offenses for Each Day. Any violator shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the zoning regulations is committed, continued, permitted, or caused by such violator and shall be punishable accordingly.

C. Any Violation a Public Nuisance. In addition to the penalties provided in this Section, any use or condition caused or permitted to exist in violation of any of the provisions of the zoning regulations shall be and is declared to be a public nuisance and may be summarily abated as such by the city.

D. Injunction as Additional Remedy. Any violation of any provision of the zoning regulations shall be and is declared to be contrary to the public interest and shall, at the discretion of the city, create a cause of action for injunctive relief.

E. Penalties. Any person convicted of an infraction under the provisions of this Section shall be punishable by a fine to the maximum permitted under state law. Any violation beyond the third conviction within a one-year period may be charged by the City Attorney or District Attorney as a misdemeanor, and the penalty for conviction shall be punishable by a fine or imprisonment to the maximum permitted under state law.

F. Liability for Expenses. In addition to the punishment provided by law, a violator is liable for such costs, expenses, and disbursements paid or incurred by the city or any of its contractors in correction, abatement, and prosecution of the violation. Reinspection fees to ascertain code compliance of previously noticed or cited violations shall be charged against the property. Fees shall be in the amount described in the master fee schedule for charged reinspection by the Housing Conservation Division of the Office of Community Development. The Housing Division Official shall give the owner or other responsible party of such affected premises a written notice showing the itemized cost of such chargeable service and requesting payment thereof. Should the bill not be paid in the required time, the charges shall be placed as a lien against the property in the manner as set forth by Section 15.08.130 of the Oakland Housing Code.

(Prior planning code § 9902)

17.152.040 Enforcement.

Pursuant to Section 836.5 of the California Penal Code, the Planning Investigator and the supervising Housing Representatives of the Housing Conservation Division of the Office of Community Development or their authorized agents are authorized to enforce the provisions of the zoning regulations and arrest violators thereof.

(Prior planning code § 9903)

17.152.050 Inspection and right of entry.

Whenever they shall have cause to suspect a violation of any provision of the zoning regulations, or whenever necessary to the investigation of an application for or revocation of any zoning approval under any of the procedures prescribed in the zoning regulations, the officials responsible for enforcement of the zoning regulations, or their duly authorized representatives, may enter on any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant. An owner or occupant or agent thereof who refuses to permit such entry and investigation shall be guilty of violating the zoning regulations and subject to the penalties prescribed in Section 17.152.030.

(Prior planning code § 9904)

17.152.060 General revocation procedures.

The provisions of Sections 17.152.060 through 17.152.230 shall outline the process by which zoning revocation hearings are required to be conducted.

(Ord. 12233 § 3 (part), 2000)

17.152.070 Filing and commencement of revocation complaints.

A. Any member of the public, city official, including any City Councilmember, City Planning Commissioner or city employee, may file a complaint with the City Planning Department and request that revocation proceedings be commenced under this Chapter to revoke or amend any land use-related approval granted, or land use permit held or issued, including subdivisions. However, this Chapter shall not apply to Deemed Approved Alcoholic Beverage Sales Regulations (Chapter 17.156) and Deemed Approved Hotel and Rooming House Regulations (Chapter 17.157) as those Chapters have specific revocation procedures.

B. All revocation complaints shall identify the property that is the subject of the complaint and shall state facts and circumstances which justify commencement of revocation proceedings.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12233 § 3 (part), 2000)

17.152.080 Investigation of revocation complaints.

Upon receiving a revocation complaint from the public, city official, or city employee that a violation of the zoning regulations, any prescribed condition of approval or public nuisance exists on or is emanating from any property that is the subject of a zoning permit issued pursuant to one of the sections of the Zoning Regulations listed in Section 17.152.070, the City Planning Director shall cause said complaint to be reviewed by the City Attorney and investigated by a City Planner. The City Planning Director, within ten (10) days of receiving any such complaint, shall send a copy of the complaint to the property owner and permit holder, if the latter is different from the property owner. The City Planner, with advice from the City Attorney, shall determine in writing whether sufficient evidence exists to set a revocation hearing. Sufficient evidence exists if there is substantial evidence that a violation of the zoning

regulations, any prescribed condition of approval or public nuisance exists on, or is emanating from any property that is the subject of a Zoning permit issued pursuant to one of the sections of the Zoning Regulations listed in Section 17.152.070. Copies of the determination shall be sent to the complainant, the property owner, permit holder, if the latter is different from the property owner, any affected neighborhood group(s) and any other person who has requested notice of any action on that complaint or that address and, as soon as the same becomes technologically feasible, posted on the city's web site.

Revocation complaints shall be reviewed, investigated and a determination regarding setting a hearing shall be made by the City Planner within twenty (20) days of the date the revocation complaint is received by the Planning Department. If no decision regarding setting a public hearing is made within the required twenty (20) day period, the complainant, within ten (10) days of the date the city's determination was required to be made, may make a written demand to the City Planning Director that a hearing be set. Upon receipt of any such demand, the City Planning Director immediately shall set the matter for hearing before a Hearing Officer at the next available date. The matter shall then be heard and decided by the Hearing Officer in the same manner and time that appeals are heard.

If a determination is made that sufficient evidence does not exist to set a revocation hearing, the complainant, within ten (10) days of the date of the City's determination, may appeal the City Planner's determination to a City Hearing Officer. If no proper appeal is made, the City Planner's decision shall be final. Upon receipt of any such appeal, the matter shall be scheduled before the Hearing Officer at the next available date and the Hearing Officer shall determine whether sufficient evidence exists to set a revocation hearing and may grant or deny the appeal. The Hearing Officer in making his/her decision on the appeal shall not be required to hear witnesses or accept new evidence not considered by the City Planner.

In all cases the Hearing Officer's decision on the appeal shall be made within twenty (20) days of the date of the appeal and shall be final. If the appeal is granted, the matter shall be returned to the City Planning Director for public hearing scheduling before a different hearing officer. The City Planning Director shall set the matter for hearing at the next available hearing date. If the appeal is denied, or the City Planner's determination is sustained, the Hearing Officer's decision shall be final and not appealable. In each instance, the Hearing Officer's determination shall be in writing and shall be supported by findings.

(Ord. 12872 § 4 (part), 2008; Ord. 12233 § 3 (part), 2000)

17.152.090 Administrative record.

If the City Planner or the Hearing Officer determines that sufficient evidence exists to set a revocation hearing, the City Planner, with assistance from the City Attorney, immediately shall prepare a revocation administrative record. The revocation administrative record shall include a clear statement of each alleged violation and/or the nature of any public nuisance that is occurring on or emanating from the property that is the subject of the revocation proceedings. The revocation administrative record also shall include a general summary of the evidence that will be used by the city at the revocation hearing to prosecute the alleged violations. At the discretion of the Hearing Officer, and upon a good cause request by the city, the revocation administrative record may be amended.

(Ord. 12233 § 3 (part), 2000)

17.152.100 Notice.

Not less than seventeen (17) days prior to the revocation hearing, the City Planner shall give written notice to the complainant, property owner, and permit holder, if the latter is different from the property owner, of the date, time and place of the revocation hearing. The time and place of the revocation hearing shall be set, if at all possible, between seven (7) p.m. and ten (10) p.m. during the week. Notice also shall be given to other interested individuals, entities and neighborhood organizations that have requested notification, and to similar individuals and groups, as the City Planner deems necessary. The revocation administrative record shall be mailed with the notice to the property owner and permit holder. Notices also shall be appropriately posted on the property that is the subject of the revocation proceedings. All posted and mailed notices to individuals and entities other than the owner and permit holder shall indicate the availability of the revocation administrative record. Notice by mail is deemed given on the date it is properly addressed and placed in the U.S. mail system. At the discretion of the Hearing Officer, and upon a good cause request by the city, the revocation administrative record may be amended.

(Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12233 § 3 (part), 2000)

17.152.110 Administrative Hearing Officer.

The City Planning Director shall appoint an administrative Hearing Officer to conduct the revocation proceedings. The administrative Hearing Officer who conducts the revocation proceedings shall not be any individual who reviewed or investigated the complaint, determined the sufficiency of the evidence to set the hearing, prepared the revocation administrative record, or gave notice of the revocation proceedings. A Deputy City Attorney shall be appointed by the City Attorney to advise the administrative Hearing Officer. The Advisor to the Hearing Officer shall not be the same attorney who assists the City Planner, or who presents the city's case to the Hearing Officer.

(Ord. 12233 § 3 (part), 2000)

17.152.120 Revocation hearing.

The revocation hearing shall be conducted by the Hearing Officer appointed by the Planning Director. Formal rules of evidence shall not apply to the conduct of the hearing. Witnesses may be sworn at the discretion of the Hearing Officer. The Hearing Officer, for good cause, shall have the authority and discretion to permit examination of witnesses. The city's case shall be presented to the Hearing Officer by a Deputy City Attorney and a City Planner. The property owner, permit holder and other interested individuals or entities may be represented by counsel at the hearing.

The revocation hearing shall be public and members of the public shall be given a reasonable opportunity to testify and present evidence. Evidence may be submitted in writing to the Hearing Officer by any interested individual or entity. Copies of written evidence submitted to the Hearing Officer shall be provided to any individual or entity requesting copies. The hearing may be continued from time-to-time. The continued hearing time, if at all possible, also shall be set between seven (7) p.m. and ten (10) p.m. during the week.

(Ord. 12872 § 4 (part), 2008; Ord. 12233 § 3 (part), 2000)

17.152.130 Hearing Officer's decision.

The decision of the Hearing Officer shall be in writing and shall be supported by findings. The Hearing Officer's decision shall be made within thirty (30) days of the date the hearing is opened by the Hearing Officer, unless an extension is granted in writing by the complainant, property owner and permit holder. If a decision is not made by the Hearing Officer within thirty (30) days, any interested individual or entity, within ten (10) days of the date the Hearing Officer was required to make a decision, may lodge a letter of complaint with the City Planning Commission. There shall be no fee for this letter complaint. The Commission shall, upon receipt of the Complaint, order the hearing to be completed and a written decision rendered within ten (10) days of the date of the Commission's order. Copies of the decision shall be sent to the complainant, the property owner, permit holder, if the latter is different from the property owner, any affected neighborhood group(s) and any other individual or entity who has requested notice of any action on that complaint or that address and, as soon as the same becomes technologically feasible, posted on the city's web site. The Hearing Officer's decision shall become final ten (10) calendar days after the date of the decision, unless appealed to the City Planning Commission in accordance with Section 17.152.150. In the event the last day of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

(Ord. 12872 § 4 (part), 2008; Ord. 12233 § 3 (part), 2000)

17.152.140 Revocation penalties.

In the event the Hearing Officer, or, on appeal, the City Planning Commission or the City Council, determines there has been a violation of any provisions of the Zoning Regulations, or upon evidence that there has been a failure to comply with any prescribed condition of approval, or a determination is made that a public nuisance exists on or is emanating from the property that is the subject of the revocation proceedings, the Hearing Officer, or, on appeal, the City Planning Commission or City Council, may amend or revoke any zoning permit associated with the property, add additional conditions of approval, abate the public nuisance, impose fines and/or penalties and/or issue any other reasonable remedial order to address the violations, failures and/or public nuisance. All penalties and fines imposed by the Hearing Officer, City Planning Commission or City Council shall be set forth in a written decision.

(Ord. 12233 § 3 (part), 2000)

17.152.150 Appeal to Planning Commission.

If the Hearing Officer's decision is properly appealed to the City Planning Commission, the City Planning Director, upon receipt of a valid appeal, shall forward a complete Hearing Officer hearing record, including a transcript of the Hearing Officer proceedings and the Hearing Officer's written decision, to the City Planning Commission. The Hearing Officer's record of proceedings shall be forwarded to the City Planning Commission prior to the date the Commission hears the appeal. The appeal hearing before the Commission shall not be a de novo hearing.

Any appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Hearing Officer or wherein his/her decision is not supported by the evidence in the record. Upon receipt of such appeal, the Secretary to the Commission shall set the date for consideration thereof and, not less than seventeen (17) days prior thereto, give written notice to: the appellant, any adverse individuals and/or entities, or the attorney, spokesperson, or

representative of such individual or entity, other interested groups and neighborhood associations that have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date, time and place of the hearing on the appeal, and, as soon as the same become technologically feasible, post the date, time and place of the hearing on the city's web site. Notice of the appeal shall be posted on the property.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12233 § 3 (part), 2000)

17.152.160 Procedure on appeal to City Planning Commission.

A. In its review of the appeal, the City Planning Commission shall consider whether:

1. There were procedural or substantive errors by the Hearing Officer;
2. The decision is supported by sufficient evidence;
3. Sufficient findings were made by the Hearing Officer; or,
4. There was other error or abuse of discretion by the Hearing Officer.

The City Planning Commission may sustain, modify or overturn the Hearing Officer's decision. The Commission's decision shall be in writing and shall be supported by findings. The Commission's decision on the appeal shall be made within thirty (30) days of the date the appeal is made. The appeal shall be considered made on the date it is received by the city.

B. In conducting the appeal, the City Planning Commission shall be authorized to not allow any individual or entity to introduce new written, recorded or photographic evidence on appeal, unless it is shown by substantial evidence that the new evidence was improperly excluded by the Hearing Officer, or, with due diligence, the new evidence could not have been presented to the Hearing Officer. Individuals will not be allowed to call witnesses or present new testimonial evidence at the appeal hearing. However, in compliance with the Commission's standard rules, individuals and entities will be allowed to speak to the staff report. The Commission shall be authorized to limit the time spent on each appeal. The Commission also shall be authorized to refer the entire matter and/or any new evidence back to the Hearing Officer for findings of fact and recommendations. If such referral occurs, the Commission shall retain jurisdiction over the matter. The Commission's decision on the appeal shall be appealable to the City Council. The Commission's decision shall be final, unless appealed to the City Council within ten (10) days of the date of the decision.

C. Subject to the extensions allowed by this code, if no decision is made by the Commission within the required thirty (30) day period, any interested individual or entity may appeal the Hearing Officer's decision to the City Council within ten (10) days of the date the Commission was required to make a decision. If no appeal is made within the required ten day period, the Hearing Officer's decision shall be considered final. If an appeal is properly made to the City Council, the City Council shall hear the appeal in the same manner it would hear an appeal from the City Planning Commission.

(Ord. 12872 § 4 (part), 2008; Ord. 12233 § 3 (part), 2000)

17.152.170 Appeal to the City Council.

Upon receipt of the appeal, the City Council shall set the date for consideration thereof. After setting the hearing date, the City Clerk shall notify the Secretary of the Planning Commission of the receipt of the appeal and of the date, time and place set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written

notice to: the appellant, any adverse individual or entity, or to the attorney, spokesperson, or representative of such individual or entity; other interested groups and neighborhood associations who have requested notification; and similar groups and individuals as the Secretary deems appropriate, of the date, time and place of the hearing on the appeal, and as soon as the same becomes technologically feasible, post the date, time and place of the hearing on the city's web site. The City Council shall affirm, modify or reverse the Commission's decision. The decision of the City Council shall be final.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12233 § 3 (part), 2000)

17.152.180 Procedure on appeal to City Council.

A. In its review of the appeal, the City Council shall consider whether:

1. There were procedural or substantive errors below;
2. The decision is supported by sufficient evidence;
3. Sufficient findings were made below; or,
4. There was other error or abuse of discretion below.

The appeal hearing before the City Council shall not be a de novo hearing. The City Council may sustain, modify or overturn the City Planning Commission's or Hearing Officer's decision. The City Council's decision shall be in writing and shall be supported by findings.

B. In conducting the appeal, the City Council shall be authorized to not allow any individual or entity to introduce new, written or photographic evidence on appeal, unless it is shown by substantial evidence that the new evidence was improperly excluded by the Hearing Officer, or, with due diligence, the new evidence could not have been presented below. Individuals and entities will not be allowed to call witnesses or present new testimonial evidence at the appeal hearing. However, in compliance with the City Council's standard rules, individuals and entities will be allowed to speak on the appeal. The City Council shall be authorized to limit the time spent on each appeal. The City Council's decision shall not be appealable. The City Council's decision shall be made by resolution. The Council shall vote on the appeal within thirty (30) days after opening the hearing on appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. However, the Council must decide the appeal within sixty (60) days of the appeal being filed. The Council shall be authorized to refer the matter or any new evidence back to the City Planning Commission for findings of fact and recommendations. If any such referral is made, the City Council shall retain jurisdiction over the matters.

(Ord. 12233 § 3 (part), 2000)

17.152.190 Public nuisances generally.

In addition to the penalties provided elsewhere in the Zoning Regulations, any public nuisance, use or condition caused or permitted to exist in violation of any city, state or federal law or regulation shall be considered a public nuisance and a violation of the Zoning Regulations, if a permit has been issued pursuant to any of the sections referenced in Section 17.152.070 to allow any activity or facility to be established or conducted on the property on which said public nuisance, use or condition exists. In addition to anyone else authorized by the Planning Code, the city's Hearing Officer, City Planning Commission and City Council shall be

authorized to abate said public nuisances pursuant to the procedures set forth in Sections 17.152.060 through 17.152.170 of these regulations and/or pursuant to any other authorized procedure.

(Ord. 12233 § 3 (part), 2000)

17.152.200 Liens, penalties and expenses of abatement.

A. If the Hearing Officer, City Planning Commission or City Council, as part of a final decision, imposes any fine and/or monetary penalty, such fine and/or monetary penalty, in addition to being a personal obligation of the property owner and permit holder, shall constitute a special assessment against that real property that is the subject of the final decision by the Hearing Officer, City Planning Commission or City Council;

B. In addition, any and all reasonable expenses necessarily incurred by the City Planning Department, City Building Official and/or any other City department, in abating any condition determined to be a public nuisance by a final decision of the Hearing Officer, City Planning Commission or City Council, also shall be a personal obligation of the permit holder and property owner and constitute a special assessment against the property that is the subject of the final decision.

C. Said reasonable expenses, fines and monetary expenses, among other ways, may be collected by the city pursuant to the provisions of Subsection D. of this Section.

D. For purposes of this Section, the personal obligation requirement shall apply to individuals and entities. The Building Official shall give the permit holder and owner of such premises a written notice showing the amount of the penalty, fine and expense and requesting payment thereof. If the amount of such penalty, time and expense are not paid to the Building Official within five (5) days after the date of such notice, the Building Official shall forward a report of the penalty, fine and expense to the City Planning Commission for a confirmation hearing.

The property owner and permit holder shall be given at least seventeen (17) days' notice of the confirmation hearing before the City Planning Commission. Said notice shall be in writing. The amount of the penalty, fine and expense shall be confirmed by the City Planning Commission, unless the Commission finds, based upon evidence in the record, that the Building Official erred in imposing or computing the amount of the penalty, fine or expense. If such error is found, the Commission may modify the amount of the penalty, fine or expense as warranted.

Upon confirmation of the penalty, fine or expense the Commission shall direct that the Building Official shall record in the Office of the County Recorder of the County of Alameda, State of California, a certificate substantially in the following form:

NOTICE OF LIEN

Pursuant to Chapter 17.152 of the Oakland Planning Code, a penalty, fine and expense in the amount of $_____; was assessed by the Building Official, and confirmed by the City Planning Commission against the herein described real property and said amount has not been paid, nor any part thereof, and the City of Oakland does hereby claim a lien upon the hereinafter described real property in said amount; the same shall be a lien upon said real property until said sum has been paid in full. The real property herein above-mentioned and upon which a lien is claimed is that certain parcel of land lying and being in the City of Oakland, County of Alameda, State of California and particularly described as follows, to wit:

(insert description of property)

Dated this _____ day of ;#rule;, 20_____.

_____

Building Official

City of Oakland

Such lien attaches upon recordation of the notice of lien. The description of the parcel in the notice of lien shall be that used for the same parcel as the County Assessor's map book for the current year. The County Assessor shall enter each assessment on the county tax roll opposite the affected parcel of land. The amount of the assessment shall be collected and shall be subject to the same penalties and the same procedures for foreclosure and sale, in case of delinquencies, as provided for ordinary municipal taxes.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12233 § 3 (part), 2000)

17.152.210 Fee schedule.

Fees and regulations pertaining to fees, including fees pertaining to complaints and appeals, shall be in accordance with the city's master fee schedule, provided that no city official or employee shall be required to pay a fee to file a complaint with the City Planning Department. There shall be no fee for lodging a revocation complaint with the city. To make an appeal, the property owner, permit holder and any individual or entity representing the interests of the project owner or permit holder shall pay one hundred percent (100%) of the appeal fee set by the city's master fee schedule. However, to make an appeal, the complainant, or anyone representing the complainant's interest shall pay fifty percent (50%) of the appeal fee established by the city's master fee schedule.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12233 § 3 (part), 2000)

17.152.220 Web site notice.

While the city shall make a good faith effort to post revocation notices and determinations on the city's web site, the city's failure to so post shall not constitute error and shall not serve as a basis for invalidating any decision made pursuant to this Chapter.

(Ord. 12233 § 3 (part), 2000)

17.152.230 Extension of time.

The complainant, property owner, permit holder and appellant, if applicable, may agree in writing to extend any deadline contained in this Chapter.

(Ord. 12233 § 3 (part), 2000)

Chapter 17.154 ZONING MAPS

Sections:

17.154.010 Title, purpose, and applicability.

17.154.020 Maps and designated landmarks.

17.154.030 Zoning of streets, freeways, public property, and annexed land.

17.154.040 Maintenance and revision of maps.

17.154.050 Interpretation of maps.

17.154.060 Application of regulations to lots divided by zone boundaries.

17.154.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Zoning Maps. The purpose of these provisions is to describe the boundaries of zones, and the boundaries and other features of development control maps and designated landmarks and landmark sites, established and amended under the zoning regulations. These provisions shall apply to all property within the city, and to adjoining unincorporated territory where it is prezoned pursuant to Section 17.07.040.B.

(Prior planning code § 10000)

17.154.020 Maps and designated landmarks.

A. Section Maps Showing Zone Boundaries. Subject to the provisions of Sections 17.154.030, 17.154.040, and 17.154.050, the zones referred to in the zoning regulations are established, and the boundaries between these zones are established and fixed, as shown on the zoning maps on file with the City Clerk. Said section maps and all subsequent additions and revisions thereto are incorporated as part of this Section.

B. Legend and Index for Zoning Maps. Subject to the provisions of Section 17.154.040, the legend for the zoning maps are incorporated as part of this Section.

C. Development Control Maps. Subject to the provisions of Sections 17.154.030, 17.154.040, and 17.154.050, the boundaries and other features of development control maps are established and fixed as shown on the development control maps on file with the City Clerk, including all subsequent amendments thereto, and on such additional development control maps as are hereafter adopted. All such development control maps are incorporated as part of this Section.

D. Designated Landmarks and Landmarks Sites. Subject to the provisions of Sections 17.154.040 and 17.154.050, the boundaries and other features of designated landmarks and landmark sites are established and fixed as indicated in such ordinances as are hereafter adopted pursuant to Section 17.136.070 and the rezoning and law change procedure in Chapter 17.144. All such ordinances are incorporated as part of this Section.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006; prior planning code § 10002)

17.154.030 Zoning of streets, freeways, public property, and annexed land.

Each street, freeway, alley, and path in Oakland, including the space under and over it, all unzoned public land in Oakland which is hereafter sold, and all land which is hereafter annexed to Oakland shall, in the absence of rezoning action hereafter to the contrary, be deemed to be in the same zone as the nearest zoned lots in Oakland which it abuts. In case the lots on opposite sides of such public way or such land are in different zones, the zone boundary shall be the centerline of such way or land.

(Prior planning code § 10004)

17.154.040 Maintenance and revision of maps.

The Director of City Planning shall properly maintain the zoning maps, the legend and index therefor, the development control maps, and the ordinances designating landmarks and landmark sites. When appropriate he or she shall update these by changing the revision dates thereon and the street pattern, lot lines, or other orientation features, and by indicating approved Planned Unit Developments (PUDs) pursuant to Section 17.140.090. When land is annexed to Oakland, or prezoned pursuant to Section 17.07.040.B, he or she shall, where appropriate, create new development control maps with the zoning indicated pursuant to Section 17.154.030. Except as required by Section 17.154.030, however, he or she shall make no changes in zone boundaries or substantive changes in development control maps or designated landmarks and landmark sites and all proposals for such changes shall be considered pursuant to the rezoning and law change procedure in Chapter 17.144.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; prior planning code § 10007)

17.154.050 Interpretation of maps.

Except as otherwise provided in Section 17.154.030, the boundaries between zones and the boundaries and other features of development control maps and designated landmarks and landmark sites shall be interpreted specifically as shown on or in the maps and landmark ordinances. Should any uncertainty remain as to the location or meaning of a boundary or other feature, said location or meaning shall be determined by the Director of City Planning. Such interpretation shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

(Prior planning code § 10011)

17.154.060 Application of regulations to lots divided by zone boundaries.

Wherever it is found, after applying the rules set forth in Section 17.154.050 for interpretation of zone boundaries, that any lot is divided by a boundary between zones, the provisions of the zoning regulations shall apply as follows to such lot:

A. Application of All Regulations of One Zone to Existing Lot If Boundary Is Near Lot Line. If the lot was on the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto resulting in division of the lot by a zone boundary, and the owner or developer of such lot, or of a portion or combination of such lot or lots, may at his or her option assume that all of the regulations applying in any zone covering fifty percent (50%) or more of the lot area apply to the entire lot or lots. However, this option shall not apply unless the entire lot or all such lots or parcel

of land could be included in such zone by shifting the affected zone boundary by not more than thirty (30) feet, as measured perpendicularly to said boundary at any point.

B. Application of Regulations Where Subsection A. is Inoperative. Wherever the provisions of Subsection A. of this Section do not apply or the option provided therein is not exercised:

1. No activity type or facility type is allowed on any portion of the lot located in a zone where such type is not generally allowed, except for the accessory uses allowed by Subsections B.2. and B.3. of this Section.

2. Accessory off-street parking and loading may be located on the lot without regard for zone boundaries; provided that no parking or loading shall be located on any portion of the lot located in a zone where the principal activity served is not generally allowed, except as such parking is specifically allowed by the applicable individual zone regulations subject to the conditions set forth in Section 17.116.075; and further provided that parking and loading shall be subject to a conditional use permit requirement or other special controls on any portion of the lot located in any zone where such controls generally apply to parking or loading. The total amount of required parking and loading shall be calculated separately on the basis of the amount of the served use and the requirements applying in each zone; provided that the minimum size for which any parking or loading is required shall be deemed to be exceeded if it is exceeded by the total of such use on the entire lot.

3. Accessory landscaping, fences, screening or retaining walls, and usable open space may be located on the lot without regard for zone boundaries. The total amount of required usable open space shall be calculated separately on the basis of the number of living units, or amount of floor area, and the usable open space requirements in each zone; provided that where reference is made to the total number of living units on a lot, the number on the entire lot shall be considered.

4. The maximum permitted or conditionally permitted number of living units or Floor-Area Ratio, if any, on the lot shall be calculated separately on the basis of the amount of lot area and the density ratio and Floor-Area Ratio applying in each zone. The resulting maximum permitted or conditionally permitted total number of living units or amount of floor area may be distributed on the lot without regard for zone boundaries, except as otherwise provided in Subsection B.1. of this Section and except that the number of living units and amount of floor area within each zone shall not exceed the number or amount which would be allowed on the entire lot if it were completely within such zone.

5. The minimum lot area, width, and frontage requirements of the zone which covers the greater or greatest portion of the lot area of the lot shall apply to the entire lot. If the lot area is divided equally between two (2) or more zones, the owner or developer of the lot may assume that the minimum lot area, width, and frontage requirements of either or any of such zones apply to the entire lot.

6. All regulations not covered above shall apply separately to the portion of the lot within each zone, provided that where reference is made in such regulation to the total quantity of living units or other unit of measurement on a lot, the quantity on the entire lot shall be considered.

C. Wherever a lot is divided by a boundary between height areas, the height area line may be moved up to thirty (30) feet in any direction upon the granting of Regular

Design Review approval (see Chapter 17.136 for the Regular Design Review process) to accommodate the site plan of a proposed development project. In addition to the general Design Review Criteria contained in Chapter 17.136, the proposal must meet the following additional criteria:

1. The height area line adjustment creates a more successful site plan in terms of open space, parking, or building location; and
2. Appropriate height transitions are incorporated into the building design and site plan to adjacent lower density residential properties that either share a parcel line or are across the street from the proposal.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Prior planning code § 10012)

Chapter 17.155 SPECIAL REGULATIONS APPLYING TO MINING AND QUARRYING EXTRACTIVE ACTIVITIES

Sections:

17.155.010 Purpose and intent.

17.155.020 Definitions.

17.155.030 Incorporation by reference.

17.155.040 Scope.

17.155.050 Vested rights.

17.155.060 Process.

17.155.070 Standards for reclamation.

17.155.080 Statement of responsibility.

17.155.090 Findings for approval.

17.155.100 Financial assurances.

17.155.110 Interim management plans.

17.155.120 Annual report requirements.

17.155.130 Inspections.

17.155.140 Violations and penalties.

17.155.150 Appeals.

17.155.160 Fees.

17.155.010 Purpose and intent.

The City of Oakland recognizes that, historically, the extraction of minerals has benefited the economic well-being of the City and the needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The City also recognizes that surface mining within the City occurs in a diverse, established, urban environment, which presents unique health, safety and welfare issues and where geologic, topographic, climatic, biological, and other conditions are significantly different than in less urbanized areas. Therefore, reclamation operations and the applicable specifications, inspections, reporting, monitoring must be appropriate to the surrounding conditions.

The purpose and intent of this Section is to regulate surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.), as amended, hereinafter referred to as "SMARA", Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

A. Reclamation activities eliminate hazards to public health and safety and restore mined lands to a standard that is safe, stable, and usable for development of reuses that will enhance the community;

B. Adverse environmental effects are prevented or minimized in accordance with CEQA and other applicable requirements;

C. Reclamation activities further adopted City goals, plans, policies, objectives and regulations, including, without limitation the City's General Plan;

D. Reclamation activities appropriately consider values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.020 Definitions.

The definitions set forth in this Section shall govern the construction of this Chapter.

"Area of Regional Significance" means an area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.

"Area of Statewide Significance" means an area designated by the board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

"Approved Plan" means a land use and/or development plan and all conditions of approval and adopted mitigation measures, as approved by the City pursuant to Title 17 of the Oakland Municipal Code.

"Borrow Pits" mean excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

"City" means City of Oakland.

"City Council" means City Council of the City of Oakland.

"Compatible Land Uses" means land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

"General Plan" means the General Plan of the City of Oakland.

"Haul Road" means a road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

"Idle" means surface mining operations curtailed for a period of one (1) year or more, by more than ninety (90) percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

"Incompatible Land Uses" means land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

"Mined Lands" mean the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, surface mining operations are located.

"Minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

"Operator" means any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his or her behalf, except a person who is engaged in surface mining operations as an employee with wages as his or her sole compensation.

"Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

"Reclamation Plan" means a plan for reclamation of mined lands as specified by SMARA.

"Stream Bed Skimming" means excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

"Surface Mining Operations" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed. mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, in place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).

"Use Permit" means a conditional use permit or other land use permit for mining activities.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.030 Incorporation by reference.

The provisions of SMARA (PRC § 2710 et seq.), PRC Section 2207, and State regulations CCR § 3500 et seq., as those provisions and regulations may be amended from time to time, are made a part this Section by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this Section are more restrictive than correlative State provisions, this Section shall prevail.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.040 Scope.

Except as provided in this Section, no person shall conduct surface mining operations unless a Reclamation Plan and financial assurances for reclamation have first been approved by the City. Any applicable exemption from this requirement does not automatically exempt or limit a project or activity from the application of other regulations, ordinances or policies of City, including but not limited to, the application of CEQA. the requirements of an Approved Plan or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this Section shall apply to all lands within the City, public and private.

This Section shall not apply to the following activities, subject to the above-referenced exceptions:

A. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.

B. Onsite excavation and onsite earthmoving activities which are an integral and necessary part of an approved construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

    1. All required permits for the construction, landscaping, or related land improvements have been approved by a public agency or agencies in accordance with applicable provisions of State law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act ("CEQA", Public Resources Code, Division 13, § 21000 et seq.).

    2. The City's approval and CEQA review (if applicable) of the construction project included the onsite excavation and onsite earthmoving activities.

    3. The approved construction project is consistent with the General Plan and zoning of the site.

    4. Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if the City determines, in its discretion, that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

C. Permitted operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

    1. The plant site is located on lands designated for industrial or commercial uses in the City's general plan.

    2. The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the City.

    3. None of the minerals being processed is being extracted onsite.

4. All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred onsite after January 1, 1976.

D. Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than one thousand (1,000) cubic yards in any one location of one (1) acre or less.

E. Surface mining operations that are required by federal law in order to protect a mining claim, as specified in Public Resources Code Section 2714(e).

F. Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.

G. The solar evaporation of sea water or bay water for the production of salt and related minerals.

H. Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters or other emergencies.

I. Road construction and maintenance for timber or forest operations, as specified in Public Resources Code Section 2714(j)(1); and

J. Excavation, grading, or other earthmoving activities in an oil or gas field, as specified in Public Resources Code Section 2714(k).

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.050 Vested rights.

No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the mining operation except in accordance with SMARA, State regulations, this Section and any other applicable requirements. Where a person with vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain City approval of a Reclamation Plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976), as determined by the City to be necessary or appropriate to accommodate reuse of the proposed site according to City plans, policies, ordinances, and other applicable requirements.

All other requirements of State law, this Section or an approved plan shall apply to vested mining operations.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.060 Process.

A. Applications under the requirement for an Approved Plan or Reclamation Plan for surface mining or land reclamation projects shall include, at a minimum, each of the elements required by SMARA (§ 2772-2773) and State regulations, and any other requirements

determined, in the discretion of the Planning Director or designee, to be necessary or appropriate to facilitate an evaluation of the proposed Reclamation Plan.

B. Within thirty (30) days of the acceptance of a complete application for a Reclamation Plan or as a requirement of an Approved Plan for surface mining operations and/or a Reclamation Plan, the Planning Department shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the one hundred (100) year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency ("FEMA"), and within one (1) mile, upstream or downstream, of any State highway bridge, the Planning Department shall also notify the State Department of Transportation ("Caltrans") that the application has been received.

C. The Planning Department shall process the application(s) in accordance with the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the City's environmental review guidelines.

D. Subsequent to the appropriate environmental review, the Planning Department shall prepare a staff report with recommendations for consideration by the City Planning Commission. The City Planning Commission shall hold at least one (1) noticed public hearing on Use Permit and/or Reclamation Plan. Notice shall be given by mail or delivery to all persons shown on the last available equalized assessment role as owning real property in the City limits within three hundred (300) feet of the property involved. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. At the conclusion of such hearing or hearings, the Planning Commission shall recommend to the City Council that it should approve, approve with changes, or deny the subject Reclamation Plan and/or Use Permit.

E. The City Council shall hold at least one (1) noticed public hearing on a Use Permit and/or Reclamation Plan. Notice shall be given by mail or delivery to all persons shown on the last available equalized assessment role as owning real property in the City limits within three hundred (300) feet of the property involved. All such notice shall be given not less than seventeen (17) days prior to the date set for the hearing.

F. Prior to final approval of a Reclamation Plan, financial assurances (as provided in this Chapter), any amendments to the Reclamation Plan, existing financial assurances, or those financial assurances required as part of an Approved Plan, the City Council shall certify to the State Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review.

Pursuant to PRC § 2774(d), the State Department of Conservation shall be given thirty (30) days to review and comment on the Reclamation Plan and forty-five (45) days to review and comment on the financial assurance. The Planning Department shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a response describing the disposition of the major issues raised by the State for the City Council's approval. In particular, when the Planning Department's position is at variance with the recommendations and objections raised in the State's comments, the response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Department shall be promptly forwarded to the operator/applicant.

G. The City Council shall then take action to approve, conditionally approve, or deny Use Permit and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC § 2770(d) or any other requirement of an Approved Plan.

H. The Planning Department shall forward a copy of each approved Use Permit for mining operations, an Approved Plan and/or approved Reclamation Plan, and a copy of the approved financial assurances to the State Department of Conservation. By July 1 of each year, the Planning Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Approved Plan, or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.070 Standards for reclamation.

A. All Reclamation Plans shall comply with the provisions of SMARA (§ 2772 and § 2773) and State regulations (CCR § 3500-3505). Reclamation Plans approved after January 15, 1993, Reclamation Plans for proposed new mining operations, and any substantial amendments to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards (CCR § 3700-3713).

B. The City may impose additional performance standards as developed either in review of individual projects, as warranted, through the formulation and adoption of Citywide performance standards or through an Approved Plan.

C. Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the City. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

D. The information, analysis and other specifications submitted as part of the Reclamation Plan shall demonstrate that the improvements and financial assurances are sufficient to reclaim the site in a condition that meets all applicable State and City standards, and that is appropriate for the proposed reuse of the site and consistent with the land use and other applicable policies of the General Plan.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.080 Statement of responsibility.

The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Planning Department in the mining operation's permanent record. Prior to sale or transfer of the operation, the new operator shall submit a signed statement of responsibility as well as evidence required to demonstrate the financial assurance requirement set forth in this Section or the Planning Department for placement in the permanent record.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.090 Findings for approval.

A. Approved Plans. In addition to any findings required by the Approved Plan or for surface mining operations, a finding shall be included that the project complies with the provisions of SMARA and State regulations.

B. Reclamation Plans. For Reclamation Plans, the following findings shall be required:

1. That the Reclamation Plan complies with SMARA Sections 2772 and 2773, and any other applicable provisions;

2. That the Reclamation Plan complies with applicable requirements of State regulations (CCR § 3500-3505, and § 3700-3713).

3. That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Section, the City's General Plan and any applicable resource plan, element or an Approved Plan.

4. That the Reclamation Plan has been reviewed pursuant to CEQA and the City's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.

5. That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.

6. That the Reclamation Plan will restore the mined lands to a safe, stable and usable condition which is readily adaptable for alternative land uses consistent with the General Plan, and other City Approved Plans, policies, ordinances and regulations.

7. That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that department. Where the City's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.100 Financial assurances.

A. To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the City shall require as a condition of approval security which will be released upon satisfactory performance. The applicant may pose security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the City and the State Mining and Geology Board as specified in State regulations, and which the City determines are adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan and/or an Approved Plan. Financial assurances shall be made payable to City and the State Department of Conservation.

B. Financial assurances will be required to ensure compliance with elements of the Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other

measures, if determined necessary by the Planning Department to comply with the requirements of an Approved Plan.

C. Cost estimates for the financial assurance shall be submitted to the Planning Department for review and approval prior to the operator securing financial assurances. The Planning Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within forty-five (45) days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the City has reason to determine that additional costs may be incurred. The Planning Director shall have the discretion to approve the financial assurance if it meets the requirements of this Chapter, SMARA, State regulations and any requirements of an Approved Plan.

D. The amount of the financial assurance shall be based upon the estimated costs of reclamation to a safe, stable and usable condition in accordance with an Approved Plan for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976, and new lands to be disturbed in the upcoming year. Cost estimates should be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professionals retained by the operator and approved by the Planning Director. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan in accordance with an Approved Plan for the site, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure Reclamation Plan implementation and compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved Reclamation Plan shall be based upon cost estimates that include, but may not be limited to, labor, equipment, materials, mobilization of equipment, administration, monitoring, inspections and reasonable profit by a commercial operator other than the permittee. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.

E. In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the City or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.

F. The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).

G. The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.

H. Revisions to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next

calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.110 Interim management plans.

A. Within ninety (90) days of a surface mining operation becoming idle, the operator shall submit to the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all Approved Plan conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning Department, and shall be processed as an amendment to the Reclamation Plan. IMPs shall not be considered a project for the purposes of environmental review.

B. Financial assurances for idle operations shall be maintained as though the operation were active, or as otherwise approved through the idle mine's IMP.

C. Upon receipt of a complete proposed IMP, the Planning Department shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least thirty (30) days prior to approval by the Planning Director.

D. Within sixty (60) days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Planning Director and the operator, the Planning Director shall review and approve or deny the IMP in accordance with this Chapter. The operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Planning Director, to submit a revised IMP. The Planning Director shall approve or deny the revised IMP within sixty (60) days of receipt. If the Planning Director denies the revised IMP, the operator may appeal that action to the City Council. The decision of the City Council shall be final.

E. The IMP may remain in effect for a period not to exceed five (5) years, at which time the City Council may renew the IMP for another period not to exceed five (5) years, or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.120 Annual report requirements.

Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the City Planning Department on a date established by the State Department of Conservation, on forms furnished by the State Mining and Geology Board. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within thirty (30) days of permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.130 Inspections.

The Planning Director, through the Building Department Inspection Services Division or other agency or other designee, shall arrange for inspection of a surface mining operation within six (6) months of receipt of the Annual Report required in Section 12, to determine whether the surface mining operation is in compliance with applicable requirements, including, without limitation, the Approved Plan, Reclamation Plan, approved financial assurances, and State regulations. In no event shall less than one (1) inspection be conducted in any calendar year. Said inspections may be made by a State-registered geologist, State-registered civil engineer, State-licensed landscape architect, or State-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous twelve (12) months, or other qualified specialists, as selected by the Planning Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The Planning Department shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for all costs of inspections required by the City in furtherance of this Section in accordance with the City master fee schedule or other applicable fee agreements or requirements.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.140 Violations and penalties.

If the Planning Director, through the Building Department Inspection Services Division or other designee, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this Section, the Approved Plan, the Reclamation Plan or other applicable requirements, the City shall follow the procedures set forth in Public Resources Code, Sections 2774.1 and 2774.2 concerning violations and penalties.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.150 Appeals.

A decision by the City Council to either approve or deny a Reclamation Plan pursuant to this Section shall be considered a final agency action.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

17.155.160 Fees.

The City shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Section and the State regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. These fees may be set forth in the City master fee schedule; however, failure to include such fees in the master fee schedule shall not limit the City's ability to impose fees it determines are necessary or desirable to fulfill the purposes of this Section, State regulations and other applicable requirements. Such fees shall be paid by the operator, as required by the City, at the time of filing of the Reclamation Plan application, as a part of a fee agreement

through an Approved Plan or at such other times as are determined by the City to be appropriate in order to ensure that all reasonable costs of implementing this Section are borne by the mining operator.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

Chapter 17.156 DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS

Sections:

Article I - Title and Scope

Article II - Definitions

Article III - Deemed Approved Performance Standards

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Article I Title and Scope

17.156.010 Title, purpose, and applicability.

17.156.020 Title of Deemed Approved Alcoholic Beverage Sale regulations.

17.156.030 Purpose of Deemed Approved Alcoholic Beverage Sale regulations.

17.156.040 Applicability of Deemed Approved Alcoholic Beverage Sale regulations.

17.156.050 Administrative Hearing Officer.

17.156.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the title and scope of the Deemed Approved Alcoholic Beverage Sale Regulations. The purpose of these provisions is to specify the title, purposes, and applicability of the Deemed Approved Alcoholic Beverage Sale regulations and to require conformity to said regulations.

(Ord. 11624 § 2, 1993: prior planning code § 15000)

17.156.020 Title of Deemed Approved Alcoholic Beverage Sale regulations.

The provisions of this Chapter shall be known as the Deemed Approved Alcoholic Beverage Sale Regulations.

(Ord. 11624 § 2, 1993: prior planning code § 15001)

17.156.030 Purpose of Deemed Approved Alcoholic Beverage Sale regulations.

The general purposes of the Deemed Approved Alcoholic Beverage Sale regulations are to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare by requiring that Alcoholic Beverage Sales Commercial Activities that were Legal Nonconforming Activities immediately prior to the effective date of the Deemed Approved Alcoholic Beverage Sale regulations comply with the Deemed Approved performance standards at Article III of this Chapter and to achieve the following objectives:

A. To protect residential, commercial, industrial, and civic areas and minimize the adverse impacts of nonconforming and incompatible uses;

B. To provide opportunities for Alcoholic Beverage Sale Activities to operate in a mutually beneficial relationship to each other and to other commercial and civic services;

C. To provide mechanisms to address problems often associated with the public consumption of alcoholic beverages, such as litter, loitering, graffiti, unruly behavior and escalated noise levels;

D. To provide that Alcoholic Beverage Sale Commercial Activities are not the source of undue public nuisances in the community;

E. To provide for properly maintained Alcoholic Beverage Sale establishments so that negative impacts generated by these activities are not harmful to the surrounding environment in any way;

F. To monitor that Deemed Approved Activities do not substantially change in mode or character of operation.

(Ord. 11624 § 2, 1993: prior planning code § 15002)

17.156.040 Applicability of Deemed Approved Alcoholic Beverage Sale regulations.

A. To Which Property Applicable. The Deemed Approved Alcoholic Beverage Sale regulations shall apply, to the extent permissible under other laws, to all Legal Nonconforming Alcoholic Beverage Sale Commercial Activities within the city.

B. Duplicated Regulation. Whenever any provision of the Deemed Approved Alcoholic Beverage Sale regulations and any other provision of law, whether get forth in this code, or in any other law, ordinance, or resolution of any kind, imposes overlapping or contradictory regulations, or contain restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the Deemed Approved Alcoholic Beverage Sale regulations.

C. Relationship to the Zoning Regulations. The Nonconforming Use provisions of the zoning regulations including, but not limited to, Sections 17.114.020, 17.114.050B, 17.114.070(A)(4), 17.114.080(A)(1) and (2), shall apply to the Deemed Approved Alcoholic Beverage Sale regulations.

(Ord. No. 12899 § 4, Exh. A, 2008; Ord. 11624 § 2, 1993: prior planning code § 15003)

17.156.050 Administrative Hearing Officer.

There is created an Alcoholic Beverage Sales Administrative Hearing Officer. The Alcoholic Beverage Sales Administrative Hearing Officer shall be a city staff person and shall conduct public hearings and make recommendations intended to encourage and achieve the compliance of particular sites as appropriate. This Section is not intended to restrict the powers and duties otherwise pertaining to other city officers or bodies, in the field of monitoring and ensuring the harmony of Alcoholic Beverage Sale Commercial Activities in the city. These parties shall have the powers and duties assigned to them by the Planning Code, by the zoning regulations, by other codes and ordinances, by the City Charter, or by valid administrative authority.

(Ord. 11624 § 2, 1993: prior planning code § 15010)

Article II Definitions

17.156.060 Title, purpose, and applicability.

17.156.070 Definitions.

17.156.060 Title, purpose, and applicability.

The provisions of this article shall be known as the definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the Deemed Approved Alcoholic Beverage Sale regulations. The meaning and construction of words and phrases as hereinafter set forth shall apply throughout the Deemed Approved Alcoholic Beverage Sale regulations, except where the context of such words or phrases clearly indicates a different meaning or construction.

(Ord. 11624 § 2, 1993: prior planning code § 15100)

17.156.070 Definitions.

As used in this Chapter:

"Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances, and sales of which requires a State Department of Alcoholic Beverage Control license.

"Alcoholic Beverage Sales Commercial Activity" means the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, excluding Full-Service Restaurants that comply with the below-listed definition of Full Service Restaurant.

"Condition of approval" means a requirement which must be carried out by the activity in order to retain its Deemed Approved Status.

"Deemed Approved Activity" means any Legal Nonconforming Alcoholic Beverage Sales Commercial Activity, as defined in this Section, in existence immediately prior to the effective date of the Deemed Approved Alcoholic Beverage Sale regulations shall be considered a Deemed Approved Activity as long as it complies with the Deemed Approved performance standards as set forth in Section 17.156.090, and shall no longer be considered a Legal Nonconforming Activity.

"Deemed Approved Status" means the status conferred upon a Deemed Approved Activity. Deemed Approved Status replaces legal nonconforming status.

"Full-Service Restaurant" means a place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant. To be considered a Full Service

Restaurant under the Deemed Approved Program, the establishment must meet the following criteria:

1. A "full service restaurant" shall serve "meals" to guests at all times the establishment is open for business. An establishment shall not be considered a "full-service restaurant" if it served alcohol without "meal" service being provided with the exception that alcohol sales to restaurant patrons may continue for up to two (2) hours after meal service has ceased to allow guests to comfortably complete their meals.
2. There shall be a real offer or holding out to sell "meals." Premises shall make an offer or holding out of sales of "meals" to the public by maintaining and displaying a printed menu and/or a menu board. A two-thirds (2/3) majority of the items offered on the menu shall be available at any given time the establishment is open. The mere offering of "meals" without actual sales shall not be deemed sufficient.
3. The "offer" of "meals" is not adequate to meet the above criteria. A "full service restaurant" shall make actual and substantial sales of "meals" to guests for compensation. Substantial sales shall mean that no less than sixty percent (60%) of total revenue shall be generated from food service and no more than forty percent (40%) of revenue from the sales of alcohol.
4. "Meals" means the usual assortment of foods commonly ordered at various times of the day for the cuisine served. The service of snack foods and/or appetizers alone shall not be deemed compliance with this requirement. "Meals" shall be prepared on the premises. Heating of food prepared elsewhere shall not constitute a meal for the purposes of this policy.
5. Premises shall be equipped for meal service and maintained in good faith. Premises must possess and maintain appliances for the cooking of a variety of foods such as stoves, ovens, broilers, or other devices, as well as pots, pans, or containers that can be used for cooking. Premises shall possess the necessary utensils, table service, and condiment dispensers with which to serve "meals" to the public.
6. A full service restaurant shall comply with all local health department standards.
7. A full service restaurant may have a separate lounge or bar area provided that the restaurant and bar/lounge area operate as a single entity. The physical layout, entry location(s), spatial connection between the areas, and operational characteristics, among other factors, shall be used to determine compliance. Any bar/lounge area cannot remain open when the dining area is closed. However, the dining area may be open while the bar/lounge area is closed.
8. To the extent that State Department of Alcoholic Beverage Control (ABC) regulations do not conflict with the above criteria, a full service restaurant shall comply with all ABC regulations related to "Bona fide public eating place, meals."

"Illegal activity" means an activity which has been finally determined to be in noncompliance with the Deemed Approved performance standards in Article III of this Chapter. Such an activity shall lose its Deemed Approved Status and shall no longer be considered a Deemed Approved Activity.

"Legal Nonconforming Alcoholic Beverage Sales Commercial Activity" or **"Legal Nonconforming Activity"** means an Alcoholic Beverage Sales Commercial Activity which was a nonconforming use pursuant to the Nonconforming Use Regulations in Chapter 17.114, and for which a valid state of California Alcoholic Beverage Control license had been issued and used in the exercise of the rights and privileges conferred by the license, at a time immediately

prior to the effective date of the Deemed Approved Alcoholic Beverage Sale regulations. Such an Activity shall be considered a Deemed Approved Activity, and shall no longer be considered a Legal Nonconforming Activity, except such activity shall be subject to those zoning regulations relating to nonconforming uses as specified in Section 17.156.040C, as of the effective date of the Deemed Approved Alcoholic Beverage Sale regulations.

"Officer" means Administrative Hearing Officer, as provided for at Section 17.156.050.

"Performance standards" means regulations prescribed in the Deemed Approved Performance Standards in Article III of this Chapter.

"Premises" means the actual space within a building devoted to alcoholic beverage sales.

"Restricted street" means that area applied to a depth of two hundred (200) feet on each side of and including the following streets and portions of streets, as measured perpendicularly from the right-of-way line thereof: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Highway 1-980 and 1-580; that portion of Edes Avenue lying between Clara Street and Bergedo Drive.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12154 § 2, 1999: Ord. 11624 § 2, 1993: prior planning code § 15100—15120)

Article III Deemed Approved Performance Standards

17.156.080 Title, purpose, and applicability.

17.156.090 Performance standards and Deemed Approved Activities.

17.156.080 Title, purpose, and applicability.

The provisions of this article, shall be known as the Deemed Approved performance standards. The purpose of these standards is to control dangerous or objectionable environmental effects of Alcoholic Beverage Sales Commercial Activities. These standards shall apply to all Alcoholic Beverage Sales Commercial Activities that were Legal Nonconforming Activities immediately prior to the effective date of the Deemed Approved Alcoholic Beverage Sale regulations.

(Ord. 11624 § 2, 1993: prior planning code § 15200)

17.156.090 Performance standards and Deemed Approved Activities.

An activity shall retain its Deemed Approved Status only if it conforms with all of the following Deemed Approved performance standards:

A. That it does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area;

B. That it does not result in jeopardizing or endangering the public health or safety of persons residing or working in the surrounding area;

C. That it does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests;

D. That it does not result in violations to any applicable provision of any other city, state, or federal regulation, ordinance or statute;

E. That its upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.

(Ord. 11624 § 2, 1993: prior planning code § 15210)

Article IV Deemed Approved Status Procedure

17.156.100 Title, purpose, and applicability.

17.156.110 Automatic Deemed Approved Status.

17.156.120 Notification to owners of Deemed Approved Activities.

17.156.130 Procedure for consideration—Intent.

17.156.140 Procedure for consideration of violations to performance standards.

17.156.150 Procedure for consideration of violations to conditions of approval.

17.156.160 Appeal to Planning Commission.

17.156.170 Appeal on the revocation of a Deemed Approved Status to the City Council.

17.156.180 Notification of public hearing.

17.156.190 Fee schedule.

17.156.100 Title, purpose, and applicability.

The provisions of this article shall be known as the Deemed Approved Status procedure. The purpose of these provisions is to: (A) provide notice of Deemed Approved Status upon Alcoholic Beverage Sales Commercial Activities that were Legal Nonconforming Activities immediately prior to the effective date of the Deemed Approved Alcoholic Beverage Sale regulations; (B) prescribe the procedure for the imposition of conditions of approval upon these activities; and (C) prescribe the procedure for appealing conditions of approval or the revocation of a Deemed Approved Status.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11624 § 2, 1993: prior planning code § 15300)

17.156.110 Automatic Deemed Approved Status.

All Alcoholic Beverage Sales Commercial Activities that were Legal Nonconforming Activities immediately prior to the effective date of the Deemed Approved Alcoholic Beverage Sale regulations shall automatically become Deemed Approved Activities as of the effective date of the Deemed Approved Alcoholic Beverage Sale regulations and shall no longer be considered Legal Nonconforming Activities. Each such Deemed Approved Activity shall retain its Deemed Approved Status as long as it complies with the Deemed Approved performance standards at Section 17.156.090.

(Ord. 12154 § 3, 1999: Ord. 11624 § 2, 1993: prior planning code § 15310)

17.156.120 Notification to owners of Deemed Approved Activities.

The Officer shall notify the owner of each Deemed Approved Activity, and also the property owner if not the same, of the activity's Deemed Approved Status. Such notice shall be sent via certified return receipt mail; shall include a copy of the performance standards of Article III of this Chapter with the requirement that these be posted in a conspicuous and unobstructed place visible from the entrance of the establishment for public review; notification that the activity is required to comply with all these same performance standards; that a review fee is required, and the amount of such fee provided in the master fee schedule; and that the activity is required to comply with all other aspects of the Deemed Approved Alcoholic Beverage Sale regulations. Should the notice be returned, then the notice shall be sent via regular U.S. Mail.

(Ord. 11624 § 2, 1993: prior planning code § 15320)

17.156.130 Procedure for consideration—Intent.

The provisions of Sections 17.156.130 through 17.156.190 shall outline the process by which Deemed Approved Activities are required to be reviewed.

(Ord. 11624 § 2, 1993: prior planning code § 15330)

17.156.140 Procedure for consideration of violations to performance standards.

Upon receiving a complaint from the public, Police Department, or any other interested party that a Deemed Approved Activity is in violation of the performance standards at Section 17.156.090, and once it is determined by the City that violations appear to be occurring, then the Deemed Approved Status of the Deemed Approved Activity in question shall be reviewed by the Administrative Hearing Officer at a public hearing. Notification of the public hearing shall be in accordance with Section 17.156.180.

The purpose of the public hearing is to receive testimony on whether the operating methods of the Deemed Approved Activity are causing undue negative impacts in the surrounding area. While the hearing is open, any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence to the Administrative Hearing Officer for his or her consideration; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. At the public hearing, the Administrative Hearing Officer shall determine whether the Deemed Approved Activity conforms to the Deemed Approved Performance Standards set forth in Section 17.156.090 and to any other applicable criteria, and may continue the Deemed Approved Status for the activity in question or require such changes or impose such reasonable Conditions of Approval as are in the judgment of the

Administrative Hearing Officer necessary to ensure conformity to said criteria and such conditions shall be based on the evidence before the Officer. The decision of the Officer shall be based upon information compiled, by staff and testimony from the business owner and all other interested parties. New conditions of approval shall be made a part of the Deemed Approved Status and the Deemed Approved Activity shall be required to comply with these conditions. The determination of the Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.156.160. Any party seeking to appeal the determination will be limited to issues and/or oral, written, and/or documentary evidence presented to the Administrative Hearing Officer prior to the close of the Administrative Hearing Officer's public hearing on the matter, as the appeal is not de novo.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 11624 § 2, 1993: prior planning code § 15340)

17.156.150 Procedure for consideration of violations to conditions of approval.

In the event of a violation of any of the provisions set forth in Sections 17.156.010 through 17.156.140 of these regulations, or upon evidence that there has been a failure to comply with any prescribed condition of approval, the Officer may hold a public hearing. Notification of the public hearing shall be in accordance with Section 17.156.180.

The purpose of this public hearing is to receive testimony and determine whether violations to any conditions of approval attached to the site have occurred. While the hearing is open, any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence to the Administrative Hearing Officer for his or her consideration; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. The Officer may add to or amend the existing conditions of approval based upon the oral, written, and/or documentary evidence presented; or alternatively may revoke the Deemed Approved Activity's Deemed Approved Status. The determination of the Administrative Hearing Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.156.160. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Administrative Hearing Officer prior to the close of the Administrative Hearing Officer's public hearing on the matter, as the appeal is not de novo. The decision of the Planning Commission shall be final unless appealed to the City Council in accordance with Section 17.156.170.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 11624 § 2, 1993: prior planning code § 15350)

17.156.160 Appeal to Planning Commission.

Within ten (10) calendar days after imposition of conditions of approval on a Deemed Approved Activity or the revocation of Deemed Approved Status, an appeal may be taken to the City Planning Commission by the Deemed Approved Activity owner or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Officer or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Administrative Hearing Officer prior to the close of the public hearing

on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of the appeal and the required appeal fee in accordance with Section 17.156.190, the Secretary to the Planning Commission shall set the date for consideration thereof. The Administrative Hearing Officer shall, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; the adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as appropriate, of the date and place of the hearing on the appeal.

During the hearing on the appeal, the appellant will be limited to issues and/or oral, written, and/or documentary evidence presented to the Administrative Hearing Officer prior to the close of the public hearing on the item and raised in the appeal itself, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Planning Commission shall determine whether the established use conforms to the applicable Deemed Approved performance standards and/or conditions of approval, and may continue or revoke a Deemed Approved Status; or require such changes in the existing use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said performance standards. The decision of the Planning Commission on the appeal to the conditions of approval imposed by the Administrative Hearing Officer shall be final.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11624 § 2, 1993: prior planning code § 15360)

17.156.170 Appeal on the revocation of a Deemed Approved Status to the City Council.

Within ten (10) calendar days after the date of a decision by the City Planning Commission to revoke a Deemed Approved Status, an appeal from said decision may be taken to the City Council by any interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Planning Commission and shall be filed with the City Clerk, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of the appeal and an appeal fee in accordance with Section 17.156.190, the Council shall set the date for consideration thereof. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice to: the owner of the Deemed Approved Activity; the property owner; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the time, date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the

item and raised in the appeal itself, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Council shall determine whether the Deemed Approved Activity conforms to the applicable Deemed Approved performance standards, and may approve or disapprove the revocation or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said standards. The decision of the City Council shall be made by resolution and shall be final.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11624 § 2, 1993: prior planning code § 15370)

17.156.180 Notification of public hearing.

The Officer shall notify the owner of each Deemed Approved Activity, and also the property owner if not the same, of the time and place of the public hearing. Such notice shall be sent via certified return receipt mail, and shall include notification that the Deemed Approved Status of the Deemed Approved Activity will be considered before the Officer. The public hearing shall be noticed by posting notices on the premises of the subject property; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the subject property; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing, if such is to be held. Fees for notification shall be in accordance with Section 17.156.190 and paid for by the Deemed Approved Activity in question.

A. Notice on Site. A city-provided notice shall be posted on the premises of the subject activity, placed in the window of the activity (if a window facing the street is not present, then the placard will be required to be posted onto the exterior of the building). All notices shall advertise the time, date, purpose and location of the public hearing for each particular site. All notices shall be given not less than seventeen (17) days prior to the date set for the hearing.

B. Notice by Mail. Notice by mail is deemed given on the date the notice is placed into the U.S. Mail system.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12154 § 4, 1999: Ord. 11624 § 2, 1993: prior planning code § 15380)

17.156.190 Fee schedule.

Fee, and regulations pertaining to fees, including the review, notification, appeal, and reinspection of Deemed Approved Activities shall be in accordance with the city master fee schedule.

(Ord. 11624 § 2, 1993: prior planning code § 15400)

Article V Enforcement Procedure

17.156.200 In general.

17.156.210 Official action.

17.156.220 Violations and penalties.

17.156.230 Enforcement.

17.156.240 Inspection and right of entry.

17.156.200 In general.

The provisions of this article shall apply to the enforcement of the Deemed Approved Alcoholic Beverage Sale regulations.

(Ord. 11624 § 2, 1993: prior planning code (part))

17.156.210 Official action.

All officials, departments, and employees of the city vested with the authority to issue permits, certificates, or licenses shall adhere to, and require conformance with, the Deemed Approved Alcoholic Beverage Sale regulations.

(Ord. 11624 § 2, 1993: prior planning code § 15500)

17.156.220 Violations and penalties.

A. Infractions. Any person who violates, causes, or permits another person to violate any provision of these regulations is guilty of an infraction unless otherwise provided.

B. Separate Offenses for Each Day. Any violator shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of these regulations is committed, continued, permitted, or caused by such violator and shall be punishable accordingly.

C. Any Violation a Public Nuisance. In addition to the penalties provided in this Section, any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is declared to be a public nuisance and may be summarily abated as such by the city.

D. Injunction as Additional Remedy. Any violation of any provision of these regulations shall be and is declared to be contrary to the public interest and shall, at the discretion of the city, create a cause of action for injunctive relief.

E. Penalties. Any person convicted of an infraction under the provisions of this Section shall be punishable by a fine to the maximum permitted under state law. Any violation beyond the second conviction within a one-year period may be charged by the City Attorney or District Attorney as a misdemeanor, and the penalty for conviction shall be punishable by a fine or imprisonment to the maximum permitted under state law.

F. Liability for Expenses. In addition to the punishment provided by law, a violator is liable for such costs, expenses, and disbursements paid or incurred by the city or any of its contractors in correction, abatement, and prosecution of the violation. Reinspection fees to ascertain compliance with previously noticed or cited violations shall be charged against the owner of the Deemed Approved Activity. Fees shall be in the amount described in Section 17.156.190 for charged reinspections. The inspection official shall give the owner or other

responsible party of such affected premises a written notice showing the itemized cost of such chargeable service and requesting payment thereof. Should the bill not be paid in the required time, the charges shall be placed as a lien against the property.

(Ord. 11624 § 2, 1993: prior planning code § 15510)

17.156.230 Enforcement.

The city shall designate the appropriate personnel to enforce the provisions of these regulations.

(Ord. 11624 § 2, 1993: prior planning code § 15520)

17.156.240 Inspection and right of entry.

The officials responsible for enforcement of the Planning Code, or their duly authorized representatives, may enter on any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner, whenever they have cause to suspect a violation of any provision of these regulations, or whenever necessary to the investigation of violations to the Deemed Approved performance standards or conditions of approval prescribed in these regulations. An owner or occupant or agent thereof who refuses to permit such entry and investigation shall be guilty of infringing upon the violations and penalties as outlined in Section 17.156.220 and subject to related penalties thereof.

(Ord. 11624 § 2, 1993: prior planning code § 15530)

Chapter 17.157 DEEMED APPROVED HOTEL AND ROOMING HOUSE REGULATIONS

Sections:

Article I - Title and Scope

Article II - Definitions

Article III - Deemed Approved Performance Standards

Article IV - Deemed Approved Status Procedure

Article V - Enforcement Procedure

Article I Title and Scope

17.157.010 Title.

17.157.020 Purpose of Deemed Approved Hotel regulations.

17.157.030 Applicability of Deemed Approved Hotel regulations.

17.157.040 Administrative Hearing Officer.

17.157.010 Title.

The provisions of this Chapter shall be known as the Deemed Approved Hotel Regulations.

(Ord. 12137 § 2 (part), 1999)

17.157.020 Purpose of Deemed Approved Hotel regulations.

The general purposes of the Deemed Approved Hotel Regulations are to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare by requiring that Hotels and Rooming Houses that were Legal Nonconforming Activities immediately prior to the effective date of the Deemed Approved Hotel Regulations comply with the Deemed Approved performance standards at Article III, Section 17.157.060 of this Chapter and to achieve the following objectives:

A. To protect residential, commercial, industrial and civic areas and minimize the adverse impacts of nonconforming and incompatible uses;

B. To provide opportunities for Deemed Approved Hotel Activities to operate in mutually beneficial relationship to each other and to other commercial and civic services;

C. To regulate those businesses that provide over night or short term accommodations in order to provide a standard of quality commonly expected of the hospitality industry;

D. To provide that Deemed Approved Hotel Activities are not the source of undue public nuisances or visual blight in the community;

E. To provide for properly maintained Deemed Approved Hotel Activities so that negative impacts generated by these activities are not harmful to the surrounding environment in any way;

F. To monitor that Deemed Approved Hotel Activities do not substantially change in mode or character of operation.

G. To assure that guests and residents at Deemed Approved Hotel Activities are provided safe, clean, and secure accommodations.

(Ord. 12137 § 2 (part), 1999)

17.157.030 Applicability of Deemed Approved Hotel regulations.

A. To Which Property Applicable. The Deemed Approved Hotel regulations shall apply, to the extent permissible under other laws, to all Legal Nonconforming Hotels and Rooming Houses within the city.

B. Duplicated Regulation. Whenever any provisions of the Deemed Approved Hotel regulations and any other provision of law, whether set forth in this code, or in any other law, ordinance, or resolution of any kind, imposes overlapping or contradictory regulations, or contains restrictions covering any same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the Deemed Approved Hotel regulations.

C. Relationship to the Zoning Regulations. The Nonconforming Use provisions of the zoning regulations including, but not limited to, OPC Section 17.114.020, 17.114.070(A)(4), 17.114.080(A) (1) and (2), shall apply to the Deemed Approved Hotel regulations.

(Ord. 12137 § 2 (part), 1999)

17.157.040 Administrative Hearing Officer.

There is created a Hotel Administrative Hearing Officer. The Hotel Administrative Hearing Officer shall conduct public hearings and establish findings and conditions intended to encourage and achieve compliance with the Hotel Performance Standards at Section 17.157.060 of particular sites as appropriate. This Section is not intended to restrict the powers and duties otherwise pertaining to other city officers or bodies, in the field of monitoring and ensuring the harmony of Deemed Approved Hotel Activities in the city. These parties shall have the powers and duties assigned to them by the city codes and ordinances, by the City Charter, or by valid administrative authority.

(Ord. 12137 § 2 (part), 1999)

Article II Definitions

17.157.050 Definitions.

17.157.050 Definitions.

As used in this Chapter:

"Condition of approval" means a requirement which must be carried out by the activity in order to retain its Deemed Approved Status.

"Deemed Approved Hotel Activity" means any Hotel or Rooming House that is legal nonconforming and in existence immediately prior to the effective date of the Deemed Approved Hotel regulations. Said business(es) shall be considered a Deemed Approved Hotel Activity as long as it complies with the Deemed Approved Hotel performance standards as set forth in Section 17.157.060 of this Chapter. Said business(es) shall no longer be considered a Legal Nonconforming Activity.

"Deemed Approved Status" means the status conferred upon a Deemed Approved Hotel Activity. Deemed Approved Status replaces legal nonconforming status.

"Illegal activity" means any activity which has been finally determined to be in noncompliance with the Deemed Approved performance standards in Section 17.157.060. Such an activity shall lose its Deemed Approved Status and shall no longer be considered a Deemed Approved Hotel Activity.

"Hotel" shall mean any activity as described in OMC Section 4.24.020.

"Legal Nonconforming Hotel Activity" means any Hotel or Rooming House which was a nonconforming use pursuant to the Nonconforming Use Regulations in OPC Chapter 17.114 at a time immediately prior to the effective date of the Deemed Approved Hotel regulations. Such an activity shall be considered a Deemed Approved Activity, and shall no longer be considered a Legal Nonconforming Activity, except such activity shall be subject to those zoning regulations relating to nonconforming uses as specified in OPC Section 17.157.030C, as of the effective date of the Deemed Approved Hotel regulations.

"Officer" means Administrative Hearing Officer, as provided for at Section 17.157.040.

"Performance standards" means regulations prescribed in the Deemed Approved Performance Standards set forth in Section 17.157.060.

"Permanent Residential Activity" means any activity described in OPC Section 17.10.110.

"Rooming House" shall mean any facility described in OPC Section 17.10.690 housing Semi-Transient Residential Activities and/or Permanent Residential Activities.

"Semi-Transient Residential Activity" means any activity described in OPC Section 17.10.120.

"Transient Habitation Commercial Activity" means any activity described in OPC Section 17.10.440.

(Ord. 12137 § 2 (part), 1999)

Article III Deemed Approved Performance Standards

17.157.060 Performance Standards and Deemed Approved Hotel Activities.

17.157.060 Performance Standards and Deemed Approved Hotel Activities.

An activity shall retain its Deemed Approved Status only if it conforms with the provisions of Chapter 5.34 Hotel Rates and Registration Requirements; Chapter 8.03 Hotel, Motel, and

Rooming House Operating Standards; Chapter 15.08 Oakland Housing Code, and any applicable provisions of this code.

(Ord. 12137 § 2 (part), 1999)

Article IV Deemed Approved Status Procedure

17.157.070 Purpose and applicability.

17.157.080 Automatic Deemed Approved Status.

17.157.090 Notification of owners of Deemed Approved Hotel Activities.

17.157.100 Procedure for consideration—Intent.

17.157.110 Procedure for consideration of violations to performance standards.

17.157.120 Procedure for consideration of violations of conditions of approval.

17.157.130 Appeal to City Planning Commission.

17.157.140 Appeal on the revocation of a Deemed Approved Status to the City Council.

17.157.150 Notification of public hearing before Administrative Hearing Officer.

17.157.160 Fee schedule.

17.157.070 Purpose and applicability.

The purpose of the provisions of this article is to: (A) provide notice of Deemed Approved Status upon Hotels and Rooming Houses that were Legal Nonconforming Activities immediately prior to the effective date of the Deemed Approved Hotel regulations; (B) prescribe the procedure for the imposition of conditions of approval upon those activities; and (C) prescribe the procedure for appealing conditions of approval of a Deemed Approved Status.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12137 § 2 (part), 1999)

17.157.080 Automatic Deemed Approved Status.

All Hotels and Rooming Houses that were Legal Nonconforming Activities immediately prior to the effective date of the Deemed Approved Hotel regulation shall automatically become Deemed Approved Hotel Activities as of the effective date of the Deemed Approved Hotel regulations and shall no longer be considered Legal Nonconforming Activities. Each such Deemed Approved Activity shall retain its Deemed Approved Status as long as it complies with the Deemed Approved performance standards at Section 17.157.070.

(Ord. 12137 § 2 (part), 1999)

17.157.090 Notification of owners of Deemed Approved Hotel Activities.

The city shall notify the owner of each Deemed Approved Hotel Activity, and also the property owner if not the same, of the activity's Deemed Approved Status. Such notice shall be

sent via certified return receipt mail; shall include a copy of the performance standards of Article III of this Chapter; notification that the activity is required to comply with all these same performance standards; and that the activity is required to comply with all other aspects of the Deemed Approved Hotel regulations. Should the notice be returned, then the notice shall be sent via regular U.S. Mail.

(Ord. 12137 § 2 (part), 1999)

17.157.100 Procedure for consideration—Intent.

The provisions of Sections 17.157.100 through 17.157.160 shall outline the process by which Deemed Approved Hotel Activities are required to be reviewed.

(Ord. 12137 § 2 (part), 1999)

17.157.110 Procedure for consideration of violations to performance standards.

As a result of an annual or bi-annual inspection pursuant to OMC Subsection 8.030.60.B or upon receiving a complaint from the public, Police Department, or any other interested party that a Deemed Approved Hotel Activity is in violation of the performance standards at Section 17.157.060, and once it is determined by the City that violations appear to be occurring, then the Deemed Approved Status of the Deemed Approved Hotel Activity in question shall be reviewed by the Administrative Hearing Officer at a public hearing. Notification of the public hearing shall be in accordance with Section 17.157.150.

The purpose of the public hearing is to receive testimony on whether the operating methods of the Deemed Approved Hotel Activity is in violation of the performance standards at Section 17.157.060, are causing undue negative impacts in the surrounding area, and/or whether the property is not being maintained in a manner to be habitable by guests or residents. While the hearing is open, any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence to the Administrative Hearing Officer for his or her consideration; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. At the public hearing, the Administrative Hearing Officer shall determine whether the Deemed Approved Activity conforms to the Deemed Approved Performance Standards set forth in Section 17.157.060 and to any other applicable criteria, and may continue the Deemed Approved Status for the activity in question or require such changes or impose such reasonable Conditions of Approval as are in the judgment of the Administrative Hearing Officer necessary to ensure conformity with said criteria and such conditions shall be based on the evidence before the Officer. The decision of the Officer shall be based upon information compiled by staff and testimony from the business owner and all other interested parties. New conditions of approval shall be made a part of the Deemed Approved Status and the Deemed Approved Hotel Activity shall be required to comply with these conditions. The determination of the Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.157.130. Any party seeking to appeal the determination will be limited to issues and/or oral, written, or documentary evidence presented to the Administrative Hearing Officer prior to the close of the Administrative Hearing Officer's public hearing on the matter, as the appeal is not de novo.

17.157.120 Procedure for consideration of violations of conditions of approval.

In the event of a violation of any of the provisions set forth in Sections 17.157.010 through 17.157.110 of these regulations, or upon evidence that there has been a failure to comply with any prescribed condition of approval, the Officer may hold a public hearing. Notification of the public hearing shall be in accordance with Section 17.157.150.

The purpose of this public hearing is to receive testimony and determine whether violations to any conditions of approval attached to the site have occurred. While the hearing is open, any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence to the Administrative Hearing Officer for his or her consideration; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. The officer may add to or amend the existing conditions of approval based upon the oral, written, or documentary evidence presented; or alternatively may revoke the Deemed Approved Hotel Activity's Deemed Approved Status. The determination of the Administrative Hearing Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.157.130. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Administrative Hearing Officer prior to the close of the Administrative Hearing Officer's public hearing on the matter, as the appeal is not de novo. The decision of the City Planning Commission shall be final unless appealed to the City Council in accordance with Section 17.157.140.

17.157.130 Appeal to City Planning Commission.

Within ten (10) calendar days after imposition of conditions of approval on a Deemed Approved Hotel Activity or the revocation of Deemed Approved Status, an appeal may be taken to the City Planning Commission by the Deemed Approved Activity owner or any other interested party. In the event the last date of appeal falls on a weekend or a holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Officer or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Administrative Hearing Officer prior to the close of the public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of the appeal and the required appeal fee in accordance with Section 17.157.160 the Secretary of the City Planning Commission shall set a date for consideration thereof. The Secretary of the City Planning Commission shall, not less than seventeen (17) days prior thereto, give written notice to: the owner of the Deemed Approved Hotel Activity; the property owner; the appellant in those cases where the appellant is not the owner; the adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as appropriate, of the date and place of the hearing on the appeal.

During the hearing on the appeal, the appellant will be limited to issues and/or oral, written, and/or documentary evidence presented to the Administrative Hearing Officer prior to the close of the public hearing on the item and raised in the appeal itself, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral,

or otherwise) during the appeal process. In considering the appeal, the City Planning Commission shall determine whether the Deemed Approved Hotel Activity conforms to the applicable Deemed Approved performance standards and/or conditions of approval, and may continue or revoke a Deemed Approved Status; or require such changes in the existing use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said performance standards. The decision of the City Planning Commission on the appeal to the conditions of approval imposed by the Administrative Hearing Officer shall be final.

17.157.140 Appeal on the revocation of a Deemed Approved Status to the City Council.

Within ten (10) calendar days after the date of a decision by the City Planning Commission to revoke a Deemed Approved Status, an appeal from said decision may be taken to the City Council by any interested party. In the event the last date of appeal falls on a weekend or a holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of the appeal and an appeal fee in accordance with Section 17.157.160, the Council shall set the date for consideration thereof. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice to: the owner of the Deemed Approved Hotel Activity; the property owner; the appellant in those cases where the appellant is not the owner; the adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as appropriate, of the date and place of the hearing on the appeal.

During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item and raised in the appeal itself, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Council shall determine whether the Deemed Approved Hotel Activity conforms to the applicable Deemed Approved performance standards and/or conditions of approval, and may approve or disapprove the revocation of the Deemed Approved Status; or require such changes to the existing use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said performance standards. The decision of the City Council shall be made by resolution and shall be final.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12137 § 2 (part), 1999)

17.157.150 Notification of public hearing before Administrative Hearing Officer.

The Officer shall notify the owner of each Deemed Approved Activity, and also the property owner if not the same, of the time and place of the public hearing. Such notice shall be sent via certified return receipt mail, and shall include notification that the Deemed Approved Status of

the Deemed Approved Hotel Activity will be considered by the Officer. The public hearing shall be noticed by posting notice on the premises of the subject property; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the subject property; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. Such notices shall be given not less than seventeen (17) days prior to the date set for the hearing, if such is to be held. Fees for notification shall be in accordance with Section 17.157.160 and paid for by the Deemed Approved Hotel Activity in question.

A. Notice on Site. A city-provided notice shall be posted on the premises of the subject activity, placed in the window of the activity (if a window facing the street is not present, then the notice will be required to be posted onto the exterior of the building). All notices shall advertise the time, date, purpose and location of the public hearing for each particular site. All notices shall be given not less than seventeen (17) days prior to the date set for the hearing.

B. Notice by Mail. Notice by mail is deemed given on the date the notice is placed into the U.S. Mail system.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12137 § 2 (part), 1999)

17.157.160 Fee schedule.

Fee, and regulations pertaining to fees, including the appeal, and reinspection of Deemed Approved Hotel Activities shall be in accordance with the city master fee schedule.

(Ord. 12137 § 2 (part), 1999)

Article V Enforcement Procedure

17.157.170 Official action.

17.157.180 Violations and penalties.

17.157.190 Enforcement.

17.157.170 Official action.

All officials, departments, and employees of the city vested with the authority to issue permits, certificates, or licenses shall adhere to, and require conformance with, the Deemed Approved Hotel regulations.

(Ord. 12137 § 2 (part), 1999)

17.157.180 Violations and penalties.

A. Infractions. Any person who violates, causes or permits another person to violate any provision of these regulations is guilty of an infraction unless otherwise provided.

B. Separate Offenses for Each Day. Any violator shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of these regulations is committed, continued, permitted, or caused by such violator and shall be punished accordingly.

C. Any Violation a Public Nuisance. In addition to the penalties provided in this Section, any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is declared to be a public nuisance and may be abated as such by the city after appropriate notice and opportunity to be heard.

D. Injunction as Additional Remedy. Any violation of any provision of these regulations shall be and is declared to be contrary to the public interest and shall, at the discretion of the city, create a cause of action for injunctive relief.

E. Penalties. Any person convicted of an infraction under the provisions of this Section shall be punishable by a fine to the maximum permitted under state law. Any violation beyond the second conviction within a one-year period may be charged by the City Attorney or District Attorney as a misdemeanor, and the penalty for conviction shall be punishable by a fine or imprisonment to the maximum permitted under State law.

F. Liability for Expenses. In addition to the punishment provided by law, a violator is liable for such costs, expenses, and disbursements paid or incurred by the city or any of its contractors in correction, abatement, and prosecution of the violation. Reinspection fees to ascertain compliance with previously noticed or cited violations shall be charged against the owner of the Deemed Approved Hotel Activity. Fees shall be in the amount described in Section 17.157.160 for charged reinspections. The inspection official shall give the owner or other responsible party of such affected premises a written notice showing the itemized cost of such chargeable service and requesting payment thereof. Should the bill not be paid in the required time, the charges shall be placed as a lien against the property.

(Ord. 12137 § 2 (part), 1999)

17.157.190 Enforcement.

The city shall designate the appropriate personnel to enforce the provisions of these regulations.

(Ord. 12137 § 2 (part), 1999)

Chapter 17.158 ENVIRONMENTAL REVIEW REGULATIONS

Sections:

Part 1 - General Provisions

Article 1.1 - Title and Scope

Article 1.2 - Definitions and Abbreviations

Article 1.3 - General Regulations

Part 2 - California Environmental Quality Act ("CEQA") Procedures

Article 2.1 - General Provisions

Article 2.2 - Exemption Process

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Part 1 General Provisions

Article 1.1 Title and Scope

17.158.010 Title, purpose and applicability.

17.158.020 Title of environmental review regulations.

17.158.030 Purpose of environmental review regulations.

17.158.040 Applicability of environmental review regulations.

17.158.050 Applicability to projects and permits.

17.158.060 Incorporation of amendments.

17.158.070 Conflicting provisions.

17.158.010 Title, purpose and applicability.

The provisions of this article shall be known as the title and scope of the environmental review regulations. The purpose of these provisions is to specify the title, purposes, and applicability of the environmental review regulations and to require conformity to said regulations. These provisions shall apply to the entire environmental review regulations.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1000)

17.158.020 Title of environmental review regulations.

The provisions of this chapter shall be known as the environmental review regulations.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1001)

17.158.030 Purpose of environmental review regulations.

The purpose of the environmental review regulations is to facilitate conformance by the city of Oakland with the California Environmental Quality Act, the National Environmental Policy Act, the National Historic Preservation Act, and other relevant and applicable federal, state, and local environmental laws and regulations, and to achieve the purposes set forth in those laws and regulations and in the Oakland Comprehensive Plan.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1002)

17.158.040 Applicability of environmental review regulations.

A. City CEQA Procedures. The city CEQA procedures at Section 17.158.140 shall apply to all projects sponsored or assisted by the city or Redevelopment Agency, and to all private projects requiring any discretionary approvals from the city.

B. City NEPA Procedures. The city NEPA procedures shall apply to all city, Redevelopment Agency, and private projects involving funding or any other form of participation by a federal agency, if the federal agency requires that city or redevelopment agency undertake NEPA environmental review on its behalf.

C. City Section 106 Procedures. The city Section 106 procedures shall apply to all city, Redevelopment Agency, and private projects involving funding or any other form of participation by a federal agency, if the federal agency requires that the city or redevelopment agency undertake Section 106 historic preservation consultation on its behalf under the requirements of the National Historic Preservation Act.

D. Other Environmental Review Procedures. The other environmental review procedures shall apply to projects as indicated in those procedures.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1003)

17.158.050 Applicability to projects and permits.

These environmental review regulations shall generally apply to the whole of a project, and not separately to each individual permit that a project may require. A single environmental review shall be performed for each project, and shall apply to every permit required for that project. If a project is determined to be exempt from environmental review, every permit related to the project shall likewise be deemed exempt.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1004)

17.158.060 Incorporation of amendments.

Where there is or has been amendments or changes to applicable federal, state, or local laws, regulations, or guidelines, including but not limited to CEQA, NEPA, and NHPA, the applicable amendments or changes shall be incorporated herein.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1005)

17.158.070 Conflicting provisions.

Where a conflict exists between these environmental review regulations and applicable Federal, or State regulations, or guidelines, including but not limited to CEQA, NEPA, and NHPA, the applicable Federal, or State regulations or guidelines shall prevail.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1006)

Article 1.2 Definitions and Abbreviations

17.158.080 Title, purpose and applicability.

17.158.090 Definitions.

17.158.080 Title, purpose and applicability.

The provisions of this article shall be known as the definitions and abbreviations. The purpose of these provisions is to promote consistency and precision in the interpretation of the environmental review regulations and to supplement the definitions that are found in CEQA, NEPA, NHPA, and their implementing regulations and guidelines. The meaning and construction of words and phrases as set forth in these provisions shall apply throughout the environmental review regulations, except where the context of such words or phrases clearly indicate a different meaning or construction.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1020)

17.158.090 Definitions.

"Agency" means the city of Oakland Redevelopment Agency.

Certification of a final EIR. In certifying a final EIR, the final decision-making body must find that the FEIR has been prepared in compliance with CEQA, the CEQA guidelines, and the city CEQA procedures. In addition, the decision-making body also must find that the environmental document reflects the independent judgment, review and analysis of the city. Certification does not imply that the decision-making body endorses the project. Rather, certification indicates that the decision-making body found that the final EIR adequately discusses the potential adverse environmental effects, ways in which such affects might be mitigated, and alternatives to the project which would reduce or avoid the adverse effects.

"CEQA" means the California Environmental Quality Act (Public Resources Code Section 21000 et seq.).

"City" means the city of Oakland; the body or officer acting for the City of Oakland, or the Redevelopment Agency of the City of Oakland.

"City CEQA Procedures" means the city regulations which delineate the procedures for implementing CEQA, as prescribed at Section 17.158.140.

City Planning Commission. This Commission is responsible for developing policies for and maintaining the city's Comprehensive Plan. In addition, the Commission has major responsibility for adoption and administration of the zoning regulations and subdivision

regulations. The Commission also certifies the adequacy of environmental information used in determining whether or not development projects should be approved, and is the final appeal body for all environmental review determinations, except where otherwise stated.

"City project" means a project sponsored or assisted by the city or the Redevelopment Agency of the city.

"Decision" means the first discretionary approval or denial of a project.

"Decision-making body" means any individual, officer, board or commission representing the city permitted to approve or disapprove a project.

"Discretionary action" means an action which requires the exercise of judgment or deliberation when the decision-making body decides to approve or disapprove a particular activity, as distinguished from situations where the decision-making body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations. See Section 17.158.190 for discretionary actions typically processed by the city.

"Discretionary project" means a project that requires approval of one or more discretionary actions, including but not limited to those listed at Section 17.158.190, even if the project also requires approval of one or more ministerial actions, including but not limited to those listed at Section 17.158.180.

"EIR" means an environmental impact report.

"Environmental review" means any of procedures or other provisions of the environmental review regulations that may be applicable to a particular project or action.

"Environmental Review Coordinator" means the staff person, as designated by the Environmental Review Officer, who is responsible for coordinating the environmental review process.

"Environmental Review Officer" means the staff person, as designated by the City Manager, who is responsible for the environmental impact review process, or his or her designee.

Findings. Prior to approving a project, the decision-making body is required by CEQA to make findings regarding the feasibility of mitigation measures and alternatives identified in the EIR.

"Guidelines" means the guidelines for implementation of CEQA, known as the State CEQA Guidelines, as prescribed by the Secretary for Resources of the state of California, and as developed by the State Office of Planning and Research.

Historic Property. "Historic property" are those properties that are designated City landmarks; are listed on the National Register of Historic Places, or as a California Registered Historical Landmark, or as a California Point of Historical Interest; are contributory to an S-7 Preservation Combining Zone pursuant to Section 17.84.010 of this Code; or have received an "A" or "B" rating by the Oakland Cultural Heritage Survey.

Ministerial Action. Ministerial describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying the project. The public official merely applies the law but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements. Common examples of ministerial permits include dog licenses, business licenses, and marriage licenses. See Section 17.158.180 for ministerial actions typically processed by the city.

Ministerial Project. A project that requires approval of one or more ministerial actions, including but not limited to those listed at Section 17.158.180, and does not require approval of any discretionary actions, including but not limited to those listed at Section 17.58.190.

Mitigation Monitoring Program. A "mitigation monitoring program" is used to ensure that the significant adverse environmental effects of a proposed project are avoided or reduced to a level of insignificance through the implementation of the mitigation measures recommended in the EIR or the mitigated negative declaration. The program provides a means for the city to verify that measures to mitigate project impacts are in place when the project is implemented.

"NEPA" means the National Environmental Policy Act.

"NHPA" means the National Historic Preservation Act. (See also "Section 106.")

"Notice of availability" means a brief notice that is attached to the released draft EIR. The notice shall invite response to the draft EIR, give final date for receiving such responses, advise to whom the responses shall be directed, and may provide other pertinent information for the environmental documentation of the proposed project.

"Notice of determination" means a brief notice which the city shall cause to be filed with the County Clerk after the city approves a private project or determines to carry out a public project which is subject to the requirements of CEQA.

"Notice of Exemption" means a brief notice which the city may cause to be filed with the County Clerk after the city approves a private project or determines to carry out a public project and has determined that the project is exempt from CEQA as being ministerial, categorically exempt, an emergency, or subject to another exemption from CEQA.

"Notice of preparation" means a brief notice sent by the city to notify the responsible agencies, trustee agencies, involved federal agencies, the immediately adjacent property owners and persons showing interest in the proposed project. The purpose of the notice is to solicit guidance from those agencies and individuals as to the scope and content of the environmental information to be included in the EIR.

"Private project" means a project sponsored by a person or entity other than a government agency.

Project. For CEQA purposes, "project" means the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately, as defined in Section 15378 of the State CEQA Guidelines. For the purposes of NEPA, Section 106, and other pertinent environmental laws and regulations, "project" shall have whatever meaning may be defined in those laws and regulations.

"Project sponsor" means the private individual, group or corporation, or independent public agency proposing the project and applying for city approval; in the case of a city project, the department or public officer responsible for the project.

"Public improvement by a private party (P-job)" means a public improvement constructed by a private party such as a sewer or street extension to serve new construction pursuant to Section 12.20.010 of the Oakland Municipal Code.

"Public project" means a project sponsored by a government agency, including but not limited to the city or the Redevelopment Agency of the city.

"Section 106" means Section 106 of the National Historic Preservation Act. (See also "NHPA.")

State CEQA Guidelines. See "Guidelines."

"Statement of overriding considerations" means a finding statement made by the decision-making body if it is determined that the benefits outweigh the unavoidable adverse environmental effects of a project. This statement of overriding consideration must be supported by evidence in the administrative record.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 11766 § 2 (part), 1994: prior planning code § 1022—1034)

Article 1.3 General Regulations

17.158.100 Title, purpose and applicability.

17.158.110 Recordkeeping.

17.158.120 Environmental documents prepared by other agencies.

17.158.130 Fees.

17.158.100 Title, purpose and applicability.

The provisions of this article inclusive, shall be known as the general regulations. The purpose of these provisions is to set forth certain regulations that shall apply to all provisions of the environmental review regulations.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1060)

17.158.110 Recordkeeping.

The Environmental Review Officer shall function as the official city repository for environmental review records, and as a clearinghouse for the receiving and processing of all environmental documents. The Environmental Review Officer shall maintain a library of all EIRs prepared by the city as lead agency, and all EIRs prepared by other public agencies as lead agency and referred to the city for comment. If and when other city officers, departments, boards, or commissions receive environmental documents from other agencies, they shall advise the Environmental Review Officer and send a copy of the document and any response or comments they have made on the document to the Environmental Review Officer.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1070)

17.158.120 Environmental documents prepared by other agencies.

When a public agency other than the city refers a negative declaration, draft EIR, or other environmental document on a project to the city for review and comment, the Environmental Review Officer may comment directly to said public agency, or may choose to refer such comments, in cases when such project may have potentially significant impact on city goals and objectives or planning policies, or if the project is considered to be of a controversial nature, to the City Planning Commission or the City Council for action. The Planning Commission may in some cases choose to refer the matter to the City Council. The City Manager, or other officers and departments, may review and comment directly as well, except in those cases where the City Council has acted on the matter. All comments by city departments and officers shall be

consistent with adopted city policies. In cases where a coordinated city response is deemed appropriate, the Environmental Review Officer shall be responsible for such coordination, unless the City Council, City Planning Commission, or City Manager designates another city officer or department to coordinate the response.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1080)

17.158.130 Fees.

A. Master Fee Schedule. Fees as shown in the master fee schedule are payable to the city to assist in covering processing costs at the time of filing of a request for each step of the environmental review process. For instance, when a project sponsor requests an exemption determination or environmental review, a fee is collected. If it is determined that an EIR is required, the city collects the EIR fee before beginning work on the EIR. The fee schedule may be revised by the City Council from time to time. Fees are charged for environmental determinations, initial studies, administration of EIR contracts, copies of environmental documents, public notification, challenges or appeals of any environmental determination, and any other environmental review matters as identified in the master fee schedule.

B. Effect of Nonpayment of Fees. Processing of requests for exemption determinations, initial studies, and EIR preparation may be suspended for nonpayment of the appropriate fees, and any related permit application may be considered incomplete. Challenges and appeals shall not be considered timely if the appropriate fees are not paid prior to the deadline for such challenges or appeals.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1090)

Part 2 California Environmental Quality Act ("CEQA") Procedures

Article 2.1 General Provisions

17.158.140 Title, purpose and applicability.

17.158.150 Policy.

17.158.160 State CEQA Guidelines.

17.158.170 Effect of ministerial and discretionary projects.

17.158.180 Ministerial actions.

17.158.190 Discretionary actions.

17.158.200 Decision on projects.

17.158.210 Time limits, extension or waiver of time limits.

17.158.220 Appeals and challenges.

17.158.140 Title, purpose and applicability.

The provisions of this part shall be known as the California Environmental Quality Act procedures, and may be referred to as the city CEQA procedures. The purpose of these provisions is to provide a basis for implementation of the California Environmental Quality Act (CEQA) by the city as directed by Section 15022 et seq. of the State CEQA Guidelines. These provisions shall apply to all projects sponsored by the city or Redevelopment Agency, and to all private projects requiring any discretionary approvals from the city.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1100)

17.158.150 Policy.

CEQA obliges every public agency and every citizen to take all action necessary to protect, rehabilitate and enhance the environment of California. Major consideration shall be given by the city to prevent environmental damage, both in making decisions on city projects and in regulating the activities of private individuals and corporations. The Oakland Policy Plan, a component of the Oakland Comprehensive Plan, contains three goals that relate to the purpose of these procedures: (1) To protect and improve Oakland's physical environment; (2) To conserve with care the open space and natural resources which will be needed by present and future generations; and (3) To recognize natural environmental hazards in planning for the city's future development. It is the policy of the city that consideration of environmental effects shall be incorporated into project conceptualization, design and planning at the earliest feasible time.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1110)

17.158.160 State CEQA Guidelines.

The Guidelines for implementation of CEQA as described in Section 15000 et seq. of the California Code of Regulations shall be followed by the city and are incorporated by reference into these procedures. Incorporation by reference shall include any revisions or amendments to CEQA or the State CEQA Guidelines. Section 15022 of said Guidelines requires cities to provide additional directions and information and these are provided in these environmental review regulations. Where a conflict between the Guidelines and these environmental review regulations exist, the Guidelines shall prevail.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1120)

17.158.170 Effect of ministerial and discretionary projects.

Projects requiring only ministerial approvals are not subject to environmental review under CEQA, pursuant to Section 21080(b)(1) of CEQA and Section 15268 of the State CEQA Guidelines. Projects requiring any discretionary approvals may be subject to environmental review under CEQA unless otherwise exempt, pursuant to Section 21080(a) of CEQA, and Section 15002(i) of the State CEQA Guidelines. See also Sections 17.158.180 and 17.158.190 of these environmental review regulations.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1130)

17.158.180 Ministerial actions.

Ministerial actions typically processed by the City include, but are not limited to:

A. Issuance of building, plumbing, mechanical, and electrical permits;

B. Issuance of sign and banner permits;

C. Issuance of sewer permits;

D. Issuance of sidewalk, driveway, curb, and gutter permits;

E. Issuance of ministerial demolition permits, as defined in Chapter 15.36 of the Oakland Municipal Code, except where either the demolition or replacement project requires any discretionary approvals, pursuant to Title 17 of the Oakland Planning Code;

F. Issuance of reroofing permits;

G. Issuance of pest control permits;

H. Approval of individual utility service connections or disconnections;

I. Approval of final subdivision maps;

J. Approval of parcel map waivers, including lot line adjustments and lot combinations;

K. Design review exemptions, as defined in Chapter 17.136 of the Oakland Planning Code;

L. Issuance of business licenses and payment of business taxes;

M. Granting of permits by the Police and Fire Departments.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11766 § 2 (part), 1994: prior planning code § 1140)

17.158.190 Discretionary actions.

Discretionary actions typically processed by the City include, but are not limited to:

A. Certain approvals granted under the zoning regulations, including but not limited to:

1. Conditional use permits;
2. Small project design review, as defined in Chapter 17.136 of the Oakland Planning Code;
3. Regular design review, as defined in Chapter 17.136 of the Oakland Planning Code;
4. Development agreements;
5. Planned unit developments;
6. Rezonings;
7. Variances.

B. Certain approvals granted under the subdivision regulations, including but not limited to:

1. Private access easements;
2. Tentative parcel maps;

3. Tentative tract maps.

C. Certain permits issued under other City codes, regulations, and ordinances, including but not limited to:

1. Discretionary demolition permits, as defined in Chapter 15.36 of the Oakland Municipal Code, and as related to any demolition or removal of structures on a site where the zoning regulations requires design review to alter the exterior appearance of the applicable building facility, regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Section 15.36.080;

2. Encroachment permits;

3. Excavation permits;

4. Grading permits;

5. House moving permits;

6. Obstruction permits;

7. Permits for private construction of public improvements ("P-job" permits);

8. Special activity permits issued by the City Administrator;

9. Tree removal permits.

D. Amendments to the zoning regulations, subdivision regulations, other codes and regulations governing the issuance of discretionary permits, or the Oakland General Plan.

E. Projects sponsored or assisted by the City or the Redevelopment Agency.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11766 § 2 (part), 1994: prior planning code § 1150)

17.158.200 Decision on projects.

The City Planning Commission or other appropriate decision-making body shall not approve a project for which the environmental review process is required without following the procedures outlined below.

A. Exempt Projects. If the project is exempt, some finding to this effect shall be included in the record. If action is by resolution, the resolution will typically contain a clause declaring that the project is exempt from the requirements of CEQA.

B. Negative Declarations. If a negative declaration has been prepared, the decision-making body shall review this document and approve the negative declaration concurrently in approving the project's discretionary permit application. After making a decision, the decision-making body or its agent shall notify the Environmental Review Officer, to cause a Notice of Determination (NOD) to be filed with the County Clerk. If the project requires discretionary approval from any State agency, the Environmental Review Officer shall also cause the notice of determination to be filed with the State Office of Planning and Research. The filing of the notice of determination is a mandatory requirement under CEQA Guidelines Section 15075.

The NOD shall include the following information:

1. A project identification including its common name and its location;
2. A brief description of the project;
3. The date of project approval;
4. A statement of determination that the project would not have a significant effect on the environment;
5. A statement that a negative declaration or an environmental impact report has been prepared pursuant to the provisions of CEQA;
6. The address and location where a copy of the negative declaration may be examined.

C. Environmental Impact Report (EIR). If an EIR has been prepared, the decision-making body shall certify the final EIR before approving the discretionary permits for the project. However, no project for which an EIR was completed and certified, and which identifies one or more significant environmental effects shall be approved without making one or more findings for each of the identified significant environmental effects. Such findings shall be supported by substantial evidence in the record. The following possible findings are identified in CEQA Guidelines Section 15091:

1. Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the identified significant environmental effect as identified in the final EIR;
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the City. Such changes have been adopted by such other agency or can and should be adopted by such other agency;
3. Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

Should a finding be made that mitigation measures are not feasible, the decision-making body shall adopt a "statement of overriding consideration" as described in CEQA Guidelines Section 15093.

4. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the environmental effects may be considered acceptable. The decision-making body shall state in writing the specific reasons to support its action based on the final EIR and/or information in the record. If a statement of overriding consideration is adopted, it should be identified in the notice of determination.

After making a decision, the decision-making body or its agents shall notify the Environmental Review Officer, who shall cause a Notice of Determination (NOD) to be filed with the County Clerk and if required, the State Office of Planning and Research.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 11766 § 2 (part), 1994: prior planning code § 1160)

17.158.210 Time limits, extension or waiver of time limits.

The Review Officer shall have authority to extend or waive time limits as provided in the Guidelines. Such action is appealable to the City Planning Commission within ten (10) days of the Review Officer's decision. The decision of the City Planning Commission is final. However,

failure to adhere to the prescribed time limits, shall not in and of itself, prejudice the city from requiring appropriate environmental review.

A. Review of Application for Completeness. At the time the city receives an application for a permit or other entitlement that requires discretionary review, the city will have thirty (30) days to review the application for completeness of required information for environmental determination. As noted in Section 15101 of the CEQA Guidelines, if no written determination of the completeness of the application is made within that period, the application will be deemed complete on the thirtieth day. The running of CEQA processing time periods should begin on the same date as the permit processing time limits.

B. Initial Study. The Environmental Review Officer or his/her representative shall determine within thirty (30) days after receiving an application as complete whether the Environmental Review Officer will direct that a negative declaration or an EIR, or a previously prepared negative declaration or an EIR may serve as environmental documentation for the proposed project. The thirty (30) day time limit may be extended fifteen (15) days upon the consent of the Environmental Review Officer and the project sponsor (CEQA Guidelines Section 15102).

C. Negative Declarations. The negative declaration must be completed within one hundred five (105) days from the date that the Environmental Review Officer or his/her representative has determined that the application is complete. CEQA Guidelines Section 15107 states that this statutory requirement applies to private sponsored projects only.

D. Notice of Preparation. Upon completion of an initial study, and it is determined that an EIR is required, a notice of preparation shall be prepared. All responsible and trustee agencies, interested individuals and organizations shall have thirty (30) days after receipt of the notice to respond and comment on the scope of project environmental effects.

E. Environmental Impact Report. With respect to private projects, the preparation and certification of the final EIR shall be completed within one-year of the date that an application is accepted as complete. Upon the mutual consent of both the Environmental Review Officer and the project sponsor, this one-year time limit may be extended once for a period of not more than ninety (90) days (CEQA Guidelines Section 15108).

F. Projects Subject to CEQA and NEPA. If a project is subject to both CEQA and NEPA environmental processing, the one-year time limit for the preparation of an EIR, and the one hundred five (105) day time limit for a negative declaration may be waived under certain conditions as discussed in Section 15110 of the CEQA Guidelines. Specifically, this time limit waiver shall apply when additional time is needed to prepare a combined EIR/EIS or combined negative declaration/FONSI, and if the time to prepare the combined documents would be shorter than the time required to prepare the documents separately.

G. Statute of Limitations. As stated in Section 15112 of the CEQA Guidelines, the statute of limitations for environmental documents are as follows:

(a) Notice of exemption: thirty-five (35) days after the filing of the notice with the County Clerk.

(b) Notice of determination: thirty (30) days after filing of the notice and the posting of the notice by the County Clerk, and/or the State Office of Planning and Research.

(c) If neither a notice of exemption nor a notice of determination has been filed with the appropriate agency, the statute of limitations shall be for one hundred eighty (180) days after the decision-making body's decision on the proposed project.

The statute of limitations are not waiting periods for the project sponsor. Therefore, the project sponsor may proceed at their own risk of possible legal challenge, to carry out the project as soon as the necessary and required permits for the project have been granted by the appropriate permit-granting agencies.

H. Suspension of Time Periods. As authorized by Section 15109 of the CEQA Guidelines, the Environmental Review Officer may suspend the running of the time period for the preparation of negative declarations and EIRs, if the Environmental Review Officer or his/her representative determines that the project sponsor has caused an unreasonable delay in meeting requests for information or collection of required fees.

In addition, the Planning Commission may disapprove a project application without prejudice, if there is an unreasonable delay in meeting requests for additional information or other indications of unresponsiveness that would affect the timely and expeditious preparation of the environmental documentation for the project.

The Environmental Review Officer will allow the project sponsor no more than three months to respond before a recommendation may be made to the City Planning Commission to disapprove the project without prejudice. Requests for information to the project sponsor or his/her representatives shall be made in written form, and at least one written notice sent by registered mail to the project sponsor shall be sent a minimum of two weeks before the three-month time limit ends, to allow the project sponsor time to respond. The Environmental Review Officer will allow a renewed application submitted with new fees, to start at the same point where the project was suspended or disapproved without prejudice provided the project description has not been substantially altered and will not increase the adverse environmental effects of the project as compared with the project that was disapproved without prejudice. If after a one-year period after the proposed project application has been denied without prejudice, and the project sponsor has not taken steps to re-initiate processing of the environmental documentation for the proposed project, the environmental review file will be closed permanently. Any subsequent resurrection of the proposed project will be treated as a new project and require submittal of a new application and collection of new fees.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 11766 § 2 (part), 1994: prior planning code § 1170)

17.158.220 Appeals and challenges.

The following are administrative appeals or challenges of environmental determinations made by the Environmental Review Officer, or by his or her representative. Legal challenges to the adequacy of environmental determinations are described in Section 17.158.210G. Failure to administratively appeal may limit the issues that one may raise in another administrative level or in a legal challenge in a court of law. The process governing appeals/challenges is illustrated in Figure 1. However, this text takes precedence over the figure.

A. Any determination of exemption, except those made by a final decision-making body, may be appealed in writing and with the appropriate fee according to the master fee schedule to the City Planning Commission, prior to the close of the public comment

period on the underlying permits/decision. The determination of the City Planning Commission shall be final.

B. Initial Study. The determination of the Environmental Review Officer may be appealed by the project sponsor, in writing and with the appropriate fee as found in the master fee schedule, within twenty-one (21) days from the day the project sponsor has been notified, to the Planning Commission, whose decision shall be final.

C. Negative Declaration. The negative declaration notice shall invite written challenges to the finding of no significant effect. Such written challenges shall be submitted with the appropriate challenge fee, as shown on the current master fee schedule. The challenge shall run concurrently with the twenty-one (21) or thirty (30) day public review period for the negative declaration notification. The City Planning Commission shall consider any and all such challenges, and may reject them or may direct that an appropriate environmental document be prepared (e.g., environmental exemption, mitigated negative declaration, negative declaration, or environmental impact report). The City Planning Commission's decision shall be final.

D. Determination of Need For an Environmental Impact Report. The Environmental Review Officer's determination that the preparation of an EIR is necessary may be appealed by the project sponsor, in writing and with the appropriate fee in the master fee schedule, within twenty-one (21) days of the project sponsor's receipt of this environmental determination. The City Planning Commission shall consider such appeal and may reject or direct that an appropriate environmental document be prepared. The City Planning Commission's decision shall be final.

E. Notwithstanding any provisions to the contrary, although the environmental determination of the City Planning Commission is final, where another decision-making body must approve the project itself, that decision-making body must make an environmental determination prior to taking action on the project.

F. Certification of an Environmental Impact Report. The certification of the EIR by the City Planning Commission may be appealed in writing and with the appropriate fee as found in the master fee schedule, to the City Council within ten days from the City Planning Commission decision to certify the EIR. The City Council shall retain jurisdiction to determine whether the EIR shall be certified.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1180—1186)

Article 2.2 Exemption Process

17.158.230 Title, purpose and applicability.

17.158.240 Authority to make exemption determinations.

17.158.250 Appeal to City Planning Commission.

17.158.260 Notice of exemption.

17.158.270 Considerations in making exemption determinations.

17.158.280 Categorical exemptions.

17.158.290 Statutory exemptions.

17.158.300 General rule exemptions.

17.158.230 Title, purpose and applicability.

The provisions of this article shall be known as the exemption process. The purpose of these provisions is to prescribe the procedure for making, appealing, and processing determinations of exemption from environmental review under CEQA. This process shall apply to all projects which are determined to be exempt from environmental review under CEQA.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1200)

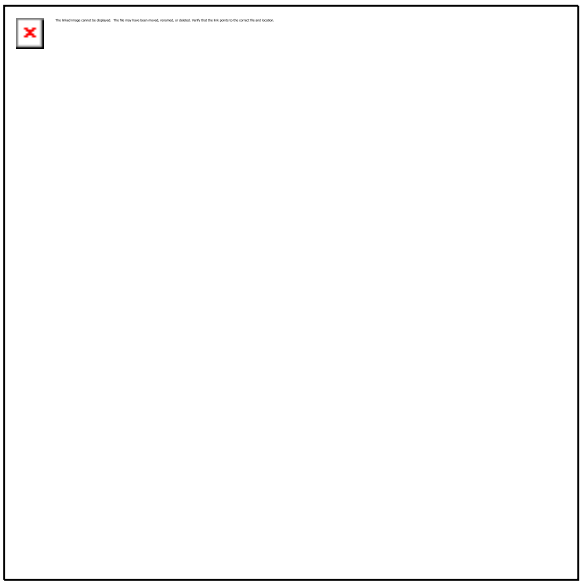
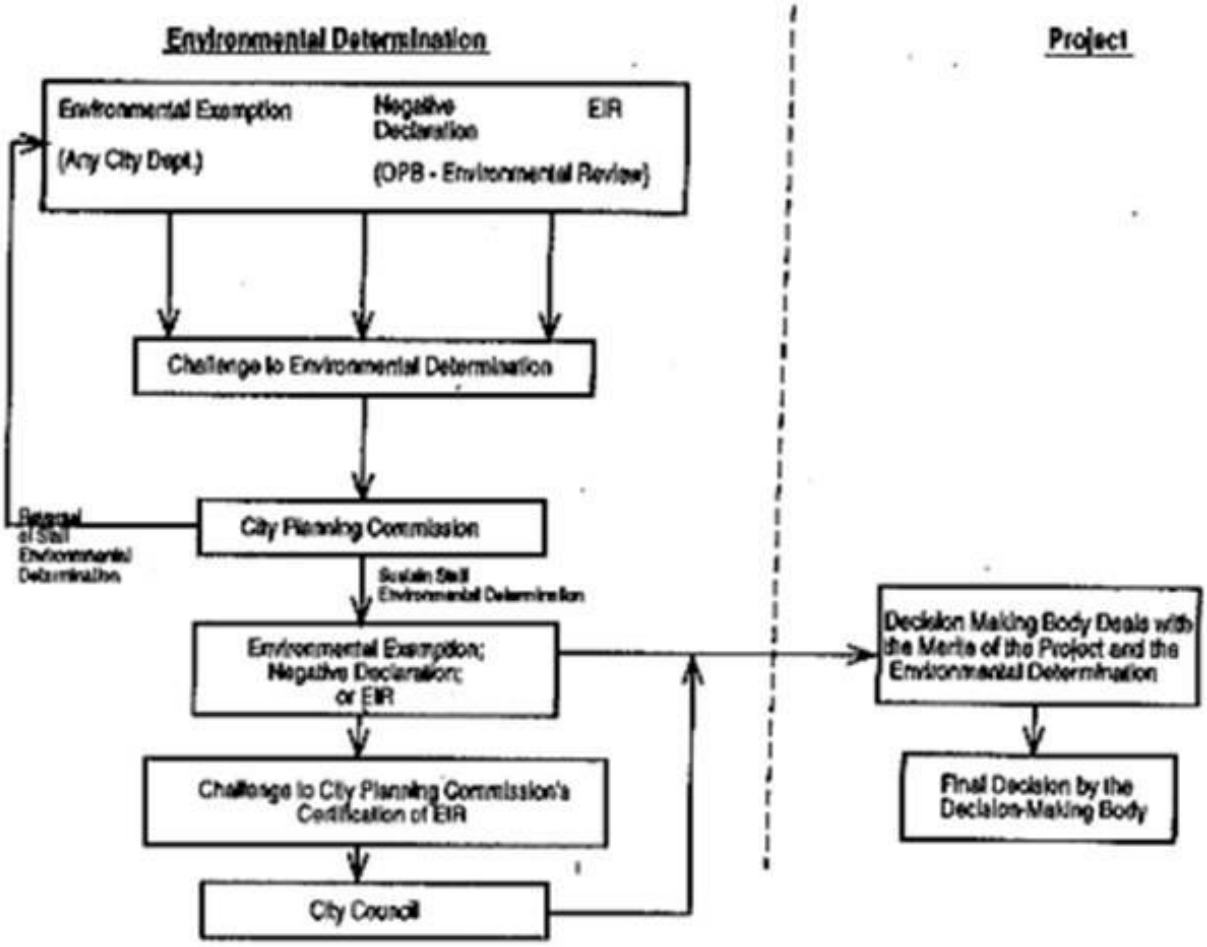


Figure 1

Relationship of Environmental Determination to the Decision on Project



17.158.240 Authority to make exemption determinations.

For a public project, any city body or officer may make a finding that an action is not subject to environmental review, consistent with the provisions of these procedures. The Environmental Review Officer or his/her representative, the Environmental Review Coordinator, may be requested to make or to confirm such finding by forwarding to him or her a request for determination of exemption from environmental review on a form prescribed by the City Planning Department. In evaluating a proposed activity to determine if there is no possibility that the activity may have a significant effect on the environment, the overall consequences of the city's discretionary action shall be considered, including direct and indirect results.

For a private project, the project sponsor shall submit a request for determination of exemption from environmental review on a form prescribed by the Environmental Review Officer and the appropriate fee according to the master fee schedule. In evaluating a proposed activity to determine if there is no possibility that the activity may have a significant effect on the environment, the overall consequences of the discretionary action shall be considered, including direct and indirect results. Should the project sponsor believe that the proposed project is not an exemptible project, the project sponsor may prepare and submit a request for environmental review. The process for this step is discussed in Section 17.58.320A of these Environmental Review Regulations.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1210)

17.158.250 Appeal to City Planning Commission.

Any determination of exemption except those made by a final decision-making body, may be appealed to the City Planning Commission as set forth in Section 17.158.220A.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1220)

17.158.260 Notice of exemption.

Following approval of an exempt project, the Environmental Review officer may be responsible for preparing a notice of exemption, and may cause the notice of exemption and any pertinent fees to be filed with the County Clerk.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1230)

17.158.270 Considerations in making exemption determinations.

A. Applicability to Overall Project. When determining whether a particular action or permit is exempt from environmental review, the overall project to which the action or permit is related shall be considered, and the exemption criteria shall be applied to the overall project, not the individual action or permit. If the project is determined to be exempt, all actions and permits related to it shall likewise be deemed exempt. If the project is determined not to be exempt, a single environmental review shall be performed covering all actions and permits related to the project, and none of those actions or permits shall be finalized or issued until environmental review is performed. For example, an easement abandonment for the purpose of constructing a small addition to an existing house would probably be exempt, but a similar easement abandonment for the purpose of constructing a ten-unit apartment building probably would not be exempt.

B. Applicability of Single and Multiple Exemptions. A project may be subject to more than one exemption from CEQA, in which case all applicable exemptions may be cited. If it is determined that a particular exemption does not apply to a project because of the qualifiers pertaining to that exemption, the project may still be exempt under another exemption. For example, a project involving grading and the construction of a new single- family home on a site with a fifteen (15) percent slope would not be exempt under Categorical Exemption Class 4, "Minor Alterations to Land," because of the qualifier that the slope be less than ten percent, but could still be exempt under Categorical Exemption Class 3, "New Construction or Conversion of Small Structures," because that class has no qualifier pertaining to slope. However, the "rule of reason" must be applied when considering possible multiple exemptions. For example, it would not be reasonable to exempt a five hundred (500) unit subdivision on a flat site under Class 4 because the project involved grading on a slope of less than ten percent.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11766 § 2 (part), 1994: prior planning code § 1240)

17.158.280 Categorical exemptions.

Section 15022(a)(1)(c) of the State CEQA Guidelines requires cities to list those specific activities that are considered to be within the twenty-nine (29) classes of categorical exemptions listed in Article 19 of the Guidelines, provided that none of the exceptions to categorical exemptions identified in Guidelines Section 15300.2, nor any of the qualifiers listed in the individual exemption classes in Sections 15301 through 15329, inclusive, of the State CEQA Guidelines, apply. These activities include but are not limited to the following:

A. New Construction or Conversion of Small Structures.

1. Three or fewer single-family homes (Section 15303(a), Class 3).
2. Apartments with six or fewer units in a single structure (Section 15303(b), Class 3).
3. Nonresidential buildings with a legal occupant load of thirty (30) persons or less as determined in accordance with the provisions of the Oakland Building Code (Section 15303(c), Class 3).
4. Utility extensions to serve such construction (Section 15303(d), Class 3).
5. Accessory structures including but not limited to garages, carports, patios, swimming pools, and fences (Section 15303(e), Class 3).

B. Additions and Alterations.

1. Minor interior or exterior alterations to existing structures (Section 15301(a), Class 1).
2. Additions of ten thousand (10,000) square feet or less to existing structures (Section 15301(e), Class 1).
3. Seismic retro-fitting of buildings and structures (Section 15302, Class 2).
4. Minor addition to schools (Section 15314, Class 14).

C. Condominium Conversions.

1. Conversion of existing multiple-family residential rental units into condominiums (Section 15301(k), Class 1).

2. Conversion of existing commercial units in one structure from single to condominium type ownership (Section 15301(o), Class 1).

D. Subdivision Matters.

1. Tentative parcel maps for four or fewer lots (Section 15315, Class 15).
2. Parcel map waivers (Section 15305(a), Class 5).
3. Private access easements (Section 15305, Class 5).

E. Tree Removal Permits.

1. Nondevelopment related tree removal permits (Section 15301(h), Class 1).
2. Development related tree removal permits if no single tree to be removed has a diameter at breast height of thirty-six (36) inches or greater, and the cumulative trunk area of all trees to be removed, not including hazardous trees, does not exceed 0.1 percent of the total lot area (Section 15304, Class 4).

F. Other Development Permits.

1. Encroachment permits (Section 15305(b), Class 5).
2. Abandonment of public easements (Section 15305, Class 5).
3. Grading, excavation, and obstruction permits for new construction projects listed in subsection A of this section (Section 15303, Class 3).
4. Grading, excavation, and obstruction permits for additions and alterations listed in subsection B of this section (Section 15301, Class 1).

G. Demolition of Nonhistoric Structures.

1. Three or fewer single-family homes (Section 15301(l)(1), Class 1).
2. Apartments with six or fewer units in a single structure (Section 15301(l)(2), Class 1).
3. Nonresidential buildings with a legal occupant load of thirty (30) persons or less as determined in accordance with the provisions of the Oakland Building Code (Section 15301(l)(3), Class 1).
4. Accessory structures including but not limited to garages, carports, patios, swimming pools, and fences (Section 15301(l)(4), Class 1).

H. Land and Housing Acquisition.

1. Land acquisition for open space (Sections 15315, 15316, 15317, or 15325; Classes 15, 16, 17, or 25 respectively).
2. Land acquisition for construction of three or fewer single-family homes for low and moderate income households (Section 15303, Class 3).
3. Sales of surplus public property (Section 15312(a)(b)(1)(2)(3), Class 12).
4. Annexations of areas containing existing public or private structures developed to densities allowed by the current zoning or pre-zoning; provided, that extension of utility services would have a capacity to serve only the existing facilities (Section 15319(a)(b), Class 19).
5. Leasing of space by the city (Section 15327, Class 27).

6. Acquisition of housing for housing assistance programs (Section 15326, Class 26).

I. Minor Projects in Public Rights-of-Way.

1. Construction of handicap ramps on public rights-of-way (Section 15301(c), Class 1).
2. Installation of new traffic signalization equipment (Section 15301(c), Class 1).
3. Easement abandonments (Sections 15301, 15305, or 15312; Classes 1, 5, or 12 respectively).
4. Street vacations (Sections 15301, 15305, or 15312; Classes 1, 5, or 12 respectively).

J. Signs and Accessory Structures.

1. On-premise signs, including those encroaching into the public right of way if permitted by applicable city codes (Section 15311(a), Class 11).
2. Surface parking lots of no more than sixty thousand (60,000) square feet that are accessory to existing commercial, industrial, or institutional facilities (Section 15311(b), Class 11).
3. Temporary or moveable facilities such as vending carts, sidewalk tables and chairs, newspaper racks, and portable restrooms (Section 15311(c), Class 11).

K. Information Collection.

1. Planning and zoning studies for information gathering purposes only (Section 15306, Class 6).

L. Public Gatherings.

1. Public gatherings such as the Festival at the Lake (Section 15323, Class 23).

M. Energy Plants.

1. Installation of cogeneration equipment meeting the conditions as described in Section 15329 of the CEQA Guidelines (Section 15329(a)(1)(2),(b)(1) (2)(3), Class 29).

(Ord. 11766 § 2 (part), 1994: prior planning code § 1250)

17.158.290 Statutory exemptions.

As described in Section 15260 through Section 15277, inclusive, of the CEQA Guidelines, there are statutory exemptions to CEQA granted by the State Legislature. The purpose of statutory exemptions is to excuse the environmental review process for an entire class of projects. This is in contrast to categorical exemptions where there may be exceptions cited if the proposed project would otherwise have a potentially adverse environmental effect. The list and description of statutory exemptions is not a comprehensive listing as cited in CEQA or the CEQA Guidelines, but rather, it is a list of those that are pertinent to the city. Omission of statutory exemptions that are found in CEQA and the CEQA Guidelines, do not void their appropriate application to specific projects in instances shown below. Therefore, statutory exemptions are described but not limited to those below:

A. Ongoing Project.

1. If a public project was approved prior to November 23, 1970, the project shall be exempt from CEQA unless a substantial portion of public funds allocated for the project have not been spent, making it feasible to modify the project or in some other way mitigate potentially adverse environmental effects. An ongoing project may also be subject to CEQA if there are modifications to the project in such a way that there may be new significant effect on the environment (Section 15261(a)(1)(2)).

2. A private project is exempt from CEQA if the project received an entitlement for use from a public agency prior to April 5, 1973, unless after April 5, 1973, the project received additional discretionary governmental approvals that involve a greater degree of responsibility or control over the project as a whole than did the approvals of entitlements prior to April 5, 1973 (Section 15261(b)(1) (2)(3)).

B. Feasibility and Planning Studies. Feasibility and planning studies for possible future actions which have not been approved, adopted, or funded are exempt. However, the study should still require environmental consideration. This statutory exemption would not apply to the adoption of a plan that will have a legally binding effect on later activities. For example, the adoption of the Oakland general plan would be subject to CEQA, and an EIR should be prepared (Section 15262).

C. General Plan Time Extension. The granting of a time extension by the State Office of Planning and Research to the city for the preparation and adoption of one or more elements of the general plan would be statutorily exempt (Section 15266).

D. Ministerial Projects. Ministerial projects as defined by Section 17.158.090, and described in Section 17.158.180, are exempt from the requirements of CEQA (Section 15268).

E. Emergency Projects. The following projects are defined as emergency projects and not subject to CEQA:

1. Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act (Section 15269(a)).

2. Emergency repairs to public service facilities necessary to maintain service (Section 15269(b)).

3. Specific actions necessary to prevent or mitigate an emergency (Section 15269(c)).

F. Projects Which are Disapproved. This statutory exemption allows disapproval on the merits of a project prior to the initiation of the CEQA process, where the city can clearly see that findings for the project cannot be made (Section 15270(a)(b)(c)).

G. Specified Mass Transit Projects. The institution or increase of passenger or commuter service on rail lines or high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities; facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services (Section 15275(a)(b)).

H. Railroad Grade Separation Projects. Railroad grade projects which eliminate an existing grade crossing or which reconstruct an existing grade separation (Section 21080.13).

I. Restriping of Streets or Highways. Projects for restriping of streets or highways to relieve traffic congestion (Section 21080.19).

J. Right-of-Way. Projects of less than one mile in length within a public street or highway, or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline (Section 21080.21).

(Ord. 11766 § 2 (part), 1994: prior planning code § 1260)

17.158.300 General rule exemptions.

As authorized by Section 15061(b)(3) of the CEQA Guidelines, the Environmental Review Officer, or his/her representative may determine that although a project may not be statutorily or categorically exempt from CEQA, a preliminary review can with reasonable certainty show that there is no possibility that a project may have a significant effect on the environment. Therefore, the project would not be subject to CEQA.

The general rule would apply where it can be plainly seen without an initial study that a proposed project would not exceed the critical thresholds for adverse environmental effects. For example, in the case of a zoning change where the new zoning classification is at least as restrictive or more restrictive as the existing zoning classification for an area. Such a condition would occur if an area were downzoned from a multifamily zoning classification to a single-family zoning district.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1270)

Article 2.3 CEQA Environmental Review Process

17.158.310 Title, purpose and applicability.

17.158.320 CEQA environmental review process.

17.158.330 Preparation of negative declarations.

17.158.340 Preparation of environmental impact reports.

17.158.310 Title, purpose and applicability.

The provisions of this article shall be known as the environmental review process. The purpose of these provisions is to prescribe the procedures for preparing and processing CEQA environmental documents, including initial studies, negative declarations, mitigated negative declarations, and environmental impact reports. This process shall apply to all projects which are determined to require environmental review under CEQA.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1300)

17.158.320 CEQA environmental review process.

The following description of the environmental review process is illustrated by Figure 2, Environmental Review Process Under CEQA.

A. Request for Environmental Review. If after review of a request for determination of environmental exemption the Environmental Review Officer finds that a project is not exempt, or it can be clearly seen by a project sponsor that a public or private project is not exempt, a request for environmental review and fee shall be submitted and shall be accompanied by information which, in the judgment of the environmental review officer, is sufficient to permit completion of an initial study. Consistent with Section 15102 of the CEQA Guidelines, the Environmental Review Officer shall determine within thirty (30) days after accepting an application as complete whether the city intends to prepare an EIR or a negative declaration or use a previously prepared EIR or negative declaration. However, failure to determine whether an EIR or negative declaration is needed within the required time frame shall in no way prejudice the city from requiring such documents. This thirty (30) day period may be extended fifteen (15) days upon the mutual consent of the city and the project applicant. Typically, the information needed to prepare an initial study may include but may not be limited to the following:

1. Project description;
2. Statement of project objectives;
3. Site plan and elevations;
4. Preliminary drainage plan;
5. Preliminary grading plan;
6. Preliminary landscaping plan;
7. Completed environmental checklist form.

B. Initial Study. Initial study of the environmental effects of the project shall be conducted by the Environmental Review Officer or the Environmental Review Coordinator using a comprehensive checklist form authorized by the Environmental Review Officer. An initial study need not be prepared if the Environmental Review Officer, after preliminary review, determines that the project clearly may have a significant effect on the environment and that an EIR should be prepared (CEQA Guidelines Section 15060(c)). The determination of the Environmental Review Officer that an EIR is required may be appealed by the project sponsor as described in Section 17.158.220B.

C. Thresholds of Significant Environmental Impact. The Environmental Review Officer may prepare criteria for assessing significant adverse environmental impact thresholds, that the City Planning Commission may adopt to serve as guidelines for determining the levels of significant effects on the environment. As guiding standards, the threshold criteria would be used to provide information in evaluating the environmental effects of a project, and to assist in determining whether a proposed project would be exempt or require additional environmental review.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1310—1313)

17.158.330 Preparation of negative declarations.

If the Environmental Review Officer determines on the basis of the initial study that the project will not have a significant effect on the environment, a negative declaration shall be prepared.

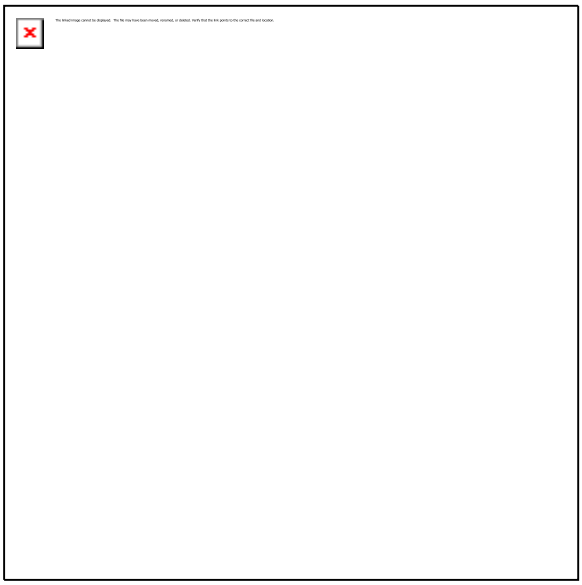

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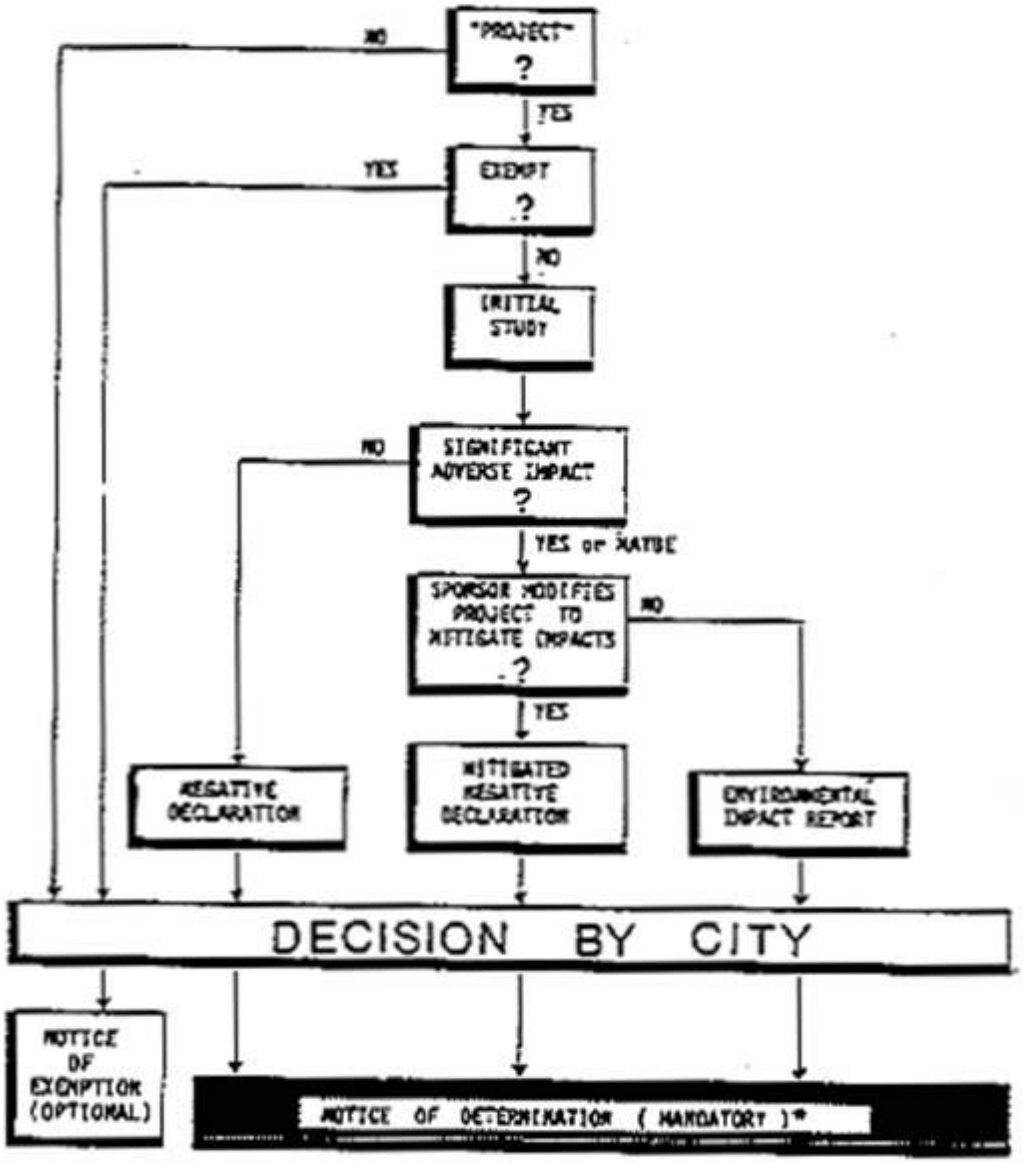
FIGURE 2

Environmental Review Process
Under CEQA



* Project Sponsor must file with County Clerk and pay required fee before project approval is considered final.

When a project would require federal funding or federal agency approvals, a joint CEQA/NEPA environmental document may be prepared to satisfy the requirements of both federal and state environmental standards. A notice of finding of no significant impact (FONSI) prepared for the project to meet National Environmental Policy Act (NEPA) requirements may serve as a valid substitute for a negative declaration required under CEQA; provided, that the procedures for the preparation of a negative declaration listed below are satisfied.

1. The Environmental Review Officer shall have notices posted consistent with the notification requirements as prescribed by Sections 17.134.040A and B, 17.136.040, 17.140.030, 17.142.030, 17.144.060 and 17.148.040A and B of the Oakland Zoning Regulations. The notice shall advise interested citizens that a negative declaration has been prepared. The notification of responsible and trustee agencies, private individuals, and property owners shall be consistent with notification for discretionary action on other related permits for the project. When the project has no identifiable site, such notices shall be substituted by a notice published one time in a newspaper of general circulation. The Environmental Review Officer may use additional means of notification, such as prescribed by Section 17.130.020 of the Oakland Zoning Regulations.

2. A period of at least twenty-one (21) calendar days following the date the notices are placed at the site or published in the newspaper shall be allowed for response prior to action on the negative declaration by the decision-making body. However, when a negative declaration has been submitted to the State Clearinghouse, the review period shall be at least as long as that of the Clearinghouse (normally thirty (30) days). Negative declarations, as well as draft EIRs are submitted to the State Clearinghouse when one or more state agency would have either permit approval, or trustee status for natural resources affected by the proposed project.

3. A notice that the city proposes to adopt a negative declaration shall be forwarded to interested persons or parties as specified in the Guidelines Section 15072 et seq. In addition, it shall be forwarded to members of the City Planning Commission; if the project is subject to approval by the Planning Commission, this may be done at the same time the Commission is sent the staff report on the project application. The Environmental Review Officer will notify any public agency and private individual which commented on the negative declaration, of the public hearings on the project for which the negative declaration was prepared.

4. The negative declaration notice shall invite written challenges to the finding of no significant effect as set forth Section 17.158.220C. If the negative declaration is forwarded to the State Clearinghouse, it shall also be accompanied by a "notice of completion and environmental document transmittal form."

5. At the conclusion of the public comment and challenge period, the negative declaration shall be signed and dated by the Environmental Review Officer, declaring that the document has been prepared in accordance to CEQA, the CEQA Guidelines, and these environmental review regulations. If challenges were received during the public comment period, and such challenges were rejected by the City Planning Commission, the Planning Commission shall have the Environmental Review Officer attach an explanation for the rejection to the negative declaration.

6. The Environmental Review Officer shall forward the negative declaration to the appropriate sponsoring department for public projects, or to the project sponsor for a private project, for the project sponsor to forward to the decision-making body which has jurisdiction for approving or denying the project.

7. Decision on the project shall take place as outlined in Section 17.158.200

B. Preparation of a Mitigated Negative Declaration. If the initial study identified potentially significant environmental effects, but revisions to the proposed project plans or proposals made by or agreed to by the project sponsor would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and there is no substantial evidence before the Environmental Review Officer that the project as revised may have a significant effect on the environment, then the Environmental Review Officer may have prepared a mitigated negative declaration. In addition, a mitigated negative declaration may be prepared in the event a negative declaration is prepared and subsequently challenged, or if the Planning Commission decides prior to a decision on the project to require a mitigated negative declaration. The following procedures would apply.

If there are mitigation measures that can be readily identified by the Environmental Review Officer or his/her representative, that can clearly reduce or avoid the significant adverse environmental effects that were identified in the initial study or through the public comment period, the Environmental Review Officer will recommend that the project sponsor agree to incorporate the mitigation measures into the proposed project. A written letter identifying the mitigation measures will be sent to the project sponsor. The project sponsor will have fourteen (14) days upon receipt of the letter, to respond to the Environmental Review Officer indicating agreement to incorporate the mitigation measures into the proposed project. Upon the mutual agreement between the Environmental Review Officer or his/her representative, and the project sponsor, the project sponsor may be given a reasonable extension of time to consider the incorporation of the identified mitigation measures, provided the project sponsor has requested the time extension with the fourteen (14) day response period. If within the fourteen (14) day period, the project sponsor either refuses to the terms of the letter, or does not respond within the time frame, the Environmental Review Officer will make a determination that an EIR would be required for the project. The procedures for preparing an EIR as outlined in this statement would then apply.

If however, the project sponsor agrees to the mitigation measures necessary to avoid or reduce the identified significant environmental effects to a level of insignificance, the mitigated negative declaration should be processed as outlined by steps 1 through 7 for a negative declaration as described in Section 17.158.330.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1400—1402)

17.158.340 Preparation of environmental impact reports.

A. Preparation of Draft EIR. If it is determined that the proposed project may have a significant effect on the environment, an EIR shall be prepared. Such determination may be made by the Environmental Review Officer during the preliminary review of the project, or after the preparation of an initial study. The City Planning Commission or the City Council may also call for the preparation of an EIR. The project sponsor may appeal the determination by the Environmental Review Officer to prepare an EIR to the City Planning Commission as set forth in Section 17.158.220B.

When the Environmental Review Officer has collected the EIR fee from the project sponsor, the Environmental Review Officer shall send via U.S. mail to each responsible agency a notice of preparation (NOP) stating that an EIR will be prepared. The NOP will be sent via U.S. mail to all responsible and trustee agencies, all surrounding communities who share a border with the city, individuals, organizations who have expressed an interest in the project or in projects in their areas of concern and interest, and owners of property which share a boundary with the site

of the proposed project. The Environmental Review Officer shall have notices posted consistent with the notification requirements as prescribed by Sections 17.134.040A and B, 17.136.040, 17.140.030, 17.142.030, 17.144.060 and 17.148.040A and B of the Oakland Zoning Regulations. When the project has no identifiable site, such notices shall be substituted by a notice published one time in a newspaper of general circulation. The Environmental Review Officer may use additional means of notification, such as prescribed by Section 17.130.020 of the Oakland Zoning Regulations.

B. The NOP shall contain sufficient information describing the proposed project and the potential environmental effects identified by the city. At a minimum, the NOP shall include the following information:

1. Description of the project area;
2. Location of the project as shown on a map;
3. Probable environmental effects of the proposed project.

All agencies, organizations and individuals shall have thirty (30) days after receiving the NOP to respond with specific detail about the scope and content of the environmental information to be contained in the draft EIR.

When one or more state agency will be either a responsible or trustee agency, the Environmental Review Officer will have the NOP sent to the State Clearinghouse. The State Clearinghouse will ensure that the state agencies reply to the city within the required time.

If a project would require federal agency funding or approval, the project will also need to comply with the federal NEPA requirements or procedures in addition to CEQA requirements. An environmental impact statement (EIS) prepared for the project to meet NEPA requirements may be substituted for the CEQA-required EIR provided that the EIS, or a combined EIR/EIS must comply with NEPA and CEQA statutory requirements.

C. The following are the minimum procedures for the preparation of an draft EIR, and may be supplemented as necessary by the Environmental Review Officer:

1. Pre-Qualification Procedure. The Director of City Planning shall prepare a standardized procedure for the selection of qualified environmental consultants.
2. Preparation of the Administrative Draft of the Draft EIR. The environmental consultant shall prepare an administrative draft of the draft EIR (ADEIR). The ADEIR is an internal document to be comprehensively reviewed by the city to ensure the adequacy of the environmental document to meet the objectives of CEQA, the CEQA Guidelines, and this statement. When the Environmental Review Officer or his/her representative, is satisfied that the document represents, in his or her judgment, an accurate and complete draft EIR, and that it is ready for public review, he or she shall sign a declaration to this effect which shall constitute the top sheet of the released report. The declaration shall invite responses to the report, give the final date for receipt of such responses, advise to whom responses shall be addressed, and provide other pertinent information. At this time, the draft EIR is released for public review and comment, and the project sponsor may also review and comment on the draft EIR.

D. Public Review of Draft EIR. A period of no less than thirty (30) days following the release of the draft EIR by the Environmental Review Officer shall be allowed for public review of the draft EIR. If the State Clearinghouse is involved, the review period shall be at least forty-five (45) calendar days. The State Clearinghouse shall be involved if one or more state agency would have jurisdiction by law with respect to the proposed project, or if the environmental effects of the proposed project would have statewide, regional or areawide significance

according to the criteria set forth in Section 15206 of the CEQA Guidelines. The review period shall begin when the site has been posted or a notice has been published as specified below.

1. The Environmental Review Officer shall have notices posted consistent with the notification requirements as prescribed by Sections 17.134.040A and B, 17.136.040, 17.140.030, 17.142.030, 17.144.060 and 17.148.040A and B of the Oakland Zoning Regulations, to advise interested persons that a draft EIR has been prepared and that comments are invited. Notices of Availability shall advise interested citizens that a draft EIR has been prepared. The notification of responsible and trustee agencies, private individuals, and property owners shall be consistent with notification for discretionary action on other related permits for the project. When the project has no identifiable site, such notices shall be substituted by a notice published one time in a newspaper of general circulation. The Environmental Review Officer may use additional means of notification, such as prescribed by Section 17.130.020 of the Oakland Zoning Regulations.

2. The Environmental Review Officer shall provide a copy of the draft EIR to:

   a. Project sponsor.

   b. Each member of the City Planning Commission.

   c. All persons and organizations who have requested it.

   d. The Oakland Main Library and, if appropriate, the branch library closest to the site of the project.

   e. Other state, regional or local agencies, which have jurisdiction by law and/or special expertise with respect to the environmental characteristics of the project or the project location, as specified in the CEQA Guidelines Section 15087(f).

   The city may charge and collect a reasonable fee for each copy of the draft EIR to recover actual costs for reproduction of the document as allowed under CEQA Guidelines Section 15045.

3. The City Planning Commission may schedule and conduct a public hearing on the draft EIR. CEQA Guidelines Section 15087 states that public hearings are encouraged, but not required as an element of the CEQA public participation process.

E. Preparation of Final EIR. The final EIR shall consist of the draft EIR, summary or verbatim comments and recommendations received during the public comment period on the draft EIR; a list of persons, organizations and public agencies commenting on the draft EIR; the responses of the lead agency to significant environmental points raised in the review and consultation process (Section 15132 of the CEQA Guidelines).

After a final EIR has been prepared, it shall be forwarded to the City Planning Commission for certification. Such certification shall be deemed to be a finding that the document has been prepared in compliance with CEQA, the CEQA Guidelines, and this statement. In addition, the City Planning Commission shall also certify that the final EIR reflects the independent judgment of the city. Certification of the final EIR does not imply that the City Planning Commission endorses the proposed project, nor that the permit application(s) for the project will be approved. The final EIR shall be prefaced by a signed cover sheet carrying this certification. The cover sheet shall also note that the preparation of the final EIR has been overseen by the Environmental Review Officer or his/her representative, and that the conclusions and recommendations in the document represent the independent conclusions and recommendations of the city.

1. The Environmental Review Officer shall forward the final EIR to the City Planning Commission, or to the appropriate decision-making body in the city.
2. Decision on the project shall take place as outlined in Section 17.158.200

F. Mitigation Monitoring Program. CEQA, as amended by AB 3180 requires local agencies to establish a monitoring program to ensure that the measures to mitigate the environmental impacts of approved projects are implemented. The purpose of the mitigation monitoring program is to ensure that all significant environmental impacts identified in the environmental documentation that can be mitigated, will indeed be mitigated after the project is approved.

For a project for which a mitigated negative declaration or an EIR has been certified, at the time the project is approved, the mitigation measures will be compiled into a checklist form. The checklist will identify the agency responsible for ensuring that the mitigation measure is implemented. The Environmental Review Officer or his representative will provide a mitigation monitoring compliance form to each agency identified on the checklist form. The compliance form will identify the mitigation measure, and allow spaces for compliance date, and inspection or field survey dates. The compliance form shall be returned to the Environmental Review Officer when the mitigation measures have been implemented.

(Ord. 11766 § 2 (part), 1994: prior planning code § 1500—1505, 1510)