

OFFICE OF THE CLERK  
CITY OF OAKLAND

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INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY

*Mark P. Wolf*

City Attorney

**OAKLAND CITY COUNCIL**  
**ORDINANCE No. 12848 -C.M.S.**

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**AN EMERGENCY ORDINANCE, PURSUANT TO CHARTER SECTION 213, ESTABLISHING INTERIM CONTROLS REQUIRING DESIGN REVIEW FOR ALL NEW AUTO RELATED CONSTRUCTION AND A CONDITIONAL USE PERMIT FOR AUTOMOTIVE-RELATED USES IN THE COMMUNITY THOROUGHFARE COMMERCIAL ZONE (C-40), TO TAKE EFFECT IMMEDIATELY UPON INTRODUCTION AND ADOPTION.**

**WHEREAS**, the Oakland Municipal Code and the Oakland Planning Code (“OPC”) regulate the distribution of uses and urban design in the Community Thoroughfare Commercial Zone (C-40 zone); and

**WHEREAS**, among other activities, the C-40 zone permits outright, without any discretionary planning review, four categories of automotive activities: Automotive Sales, Rental and Delivery; Automotive Servicing; Automotive Repair and Cleaning; and Automotive Fee Parking, all hereafter known as “auto-related activities”; and

**WHEREAS**, auto-related activities can have noise, open storage, parking and traffic impacts on adjacent residential neighborhoods; and

**WHEREAS**, the City is developing a City-wide retail strategy that focuses on encouraging pedestrian-oriented retail development on the major transportation corridors; and

**WHEREAS**, interrupting pedestrian-oriented retail nodes with auto-related activities can detract from the success of these nodes; and

**WHEREAS**, the C-40 zone also does not require design review for auto related, non-residential development; and

**WHEREAS**, the Land Use and Transportation Element of the Oakland General Plan places priority on the successful and attractive development of the transportation corridors; and

**WHEREAS**, requiring a conditional use permit from the City for establishing or expanding auto-related activities on the transportation corridors and requiring Design Review approval for auto related, non-residential development in all C-40 zones will provide the City a tool to enhance the appearance of these corridors and better promote the public's health, safety and welfare, while permanent controls are being developed; and

**WHEREAS**, there are currently before the City, or there are anticipated to be, proposals to establish auto-related activities on lots critical to the City's retail strategy, as well as non-residential development not subject to design review or other discretionary review and

**WHEREAS**, there is insufficient time to develop permanent controls regulating automotive uses in C-40 zones, and present them to the City Planning Commission and City Council for review, recommendation, and adoption; and

**WHEREAS**, the provisions of the California Environmental Quality Act (CEQA) have been satisfied and the proposal relies on the following environmental documents to satisfy any requirements under the California Environmental Quality Act (CEQA): the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted in 1998 (General Plan EIR) and the Broadway/MacArthur Redevelopment Plan Environmental Impact Report, adopted in 2000; and

**WHEREAS**, as a separate and independent basis, the proposal is also exempt from CEQA under several CEQA Guidelines: section 15061(b)(3), known as the "General Rule," that states a project is exempt from CEQA if there is no possibility that the activity in question will have a significant effect on the environment; and

**WHEREAS**, for the reasons set forth above, pursuant to City Charter section 213, the Council declares that this ordinance is necessary to preserve the public peace, health, welfare or safety and to avoid a direct threat to the health, safety, and welfare of the community, and the "Whereas" clauses above taken together constitute the City Council's statement of the reasons constituting such necessity and emergency; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** The recitals above are true and correct and are an integral part of this Ordinance.

**Section 2.** This Ordinance complies with the California Environmental Quality Act.

**Section 3.** At the locations defined in Section 4, (a) Automotive Sales, Rental and Delivery; (b) Automotive Servicing; (c) Automotive Repair; and (d) Cleaning, and Automotive Fee Parking, as defined in Chapter 17.10 of the Planning Code, shall only be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 of the Planning Code.

**Section 4.** The requirement for a conditional use permit described in Section 3 shall apply to parcels within a C-40 zone that either abut a lot located in a residential zone or on any lot within 100 feet from the right of way of any of the following streets: San Pablo Avenue, International Boulevard, Broadway, Piedmont Avenue, Telegraph Avenue or Martin Luther King Jr. Way.

**Section 5.** In addition to the design review requirements of OPC section 17.54.040, no auto related Building Facility in the C-40 zone, except for projects that are exempt from design review as set forth in Section 17.136.025, 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 of the Planning Code.

**Section 6.** No building, zoning or other permit that has been issued for any building or structure for which rights to proceed with said building or structure have not vested pursuant to the provisions of State law shall proceed without complying with this ordinance. Further, no building, zoning or other permit for any building or structure shall be issued by any department, agency, employee or agent of the City of Oakland to allow for any building or structure, without complying with the requirements of Sections 3, 4, and 5, above. No use which has not vested prior to the date of this Ordinance shall commence in violation of the provisions of this Ordinance.

**Section 7.** The controls imposed by this ordinance shall remain in place and be effective for a continuous one year from the effective date of this ordinance, or until the City Council adopts permanent controls for auto-related activities and design review in the citywide C-40 zones, whichever comes first.

**Section 8.** The Community and Economic Development Agency is directed, over the next one year, to conduct a study and develop a draft set of permanent amendments to the Planning Code and/or Municipal Code regarding the subject matter of this ordinance.

**Section 9.** For the term of this ordinance, as set for the in Section 7 above, the provisions of this ordinance shall govern, and to the extent there is any conflict between the provisions of this ordinance and the provisions of any other City code, ordinance, resolution or policy, all such conflicting provisions shall be suspended.

**Section 10.** This ordinance shall be effective immediately upon its adoption by the City Council, subject to the provisions of Section 213 of the Charter of the City of Oakland.

**Section 11.** This Ordinance is enacted pursuant to the City of Oakland's general police powers, Sections 106 and 213 of the Charter of the City of Oakland, and Article XI of the California Constitution.

**Section 12.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 18 2007, 20    

**PASSED BY THE FOLLOWING VOTE:**

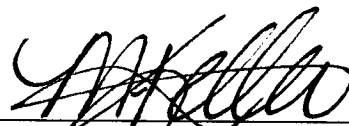
AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: \_\_\_\_\_



LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

*MPW*

## NOTICE AND DIGEST

**AN EMERGENCY ORDINANCE, PURSUANT TO CHARTER SECTION 213, ESTABLISHING INTERIM CONTROLS REQUIRING DESIGN REVIEW FOR ALL NEW AUTO RELATED CONSTRUCTION AND A CONDITIONAL USE PERMIT FOR AUTOMOTIVE-RELATED USES IN THE COMMUNITY THOROUGHFARE COMMERCIAL ZONE (C-40), TO TAKE EFFECT IMMEDIATELY UPON INTRODUCTION AND ADOPTION.**

This interim ordinance requires, for one year, that automotive-related businesses which locate or expand in C-40 zones apply for a conditional use permit if they are on lots that either abut a residential zone, or are within 100 feet from the right of way of any of the following streets: San Pablo Avenue, International Boulevard, Broadway, Piedmont Avenue, Telegraph Avenue or Martin Luther King Jr. Way. The ordinance also requires Design Review for any new auto related construction in all C-40 zones. The automotive-related activities proposed for regulation include: Automobile Sales, Rental, and Delivery, Automotive Servicing (gas stations, oil change specialists, etc), Automotive Repair and Cleaning (car dealerships and rental car businesses), and Auto Fee Parking (for fee parking lots).